



FACULTY SCHOLARSHIP 2022-2023





Leonard M. **BAYNES**

DEAN, HUGH ROY AND LILLIE CRANZ CULLEN
DISTINGUISHED CHAIR, AND PROFESSOR OF LAW

The excellence of a law school is defined both in the classroom and in the quality of scholarly research and writing produced by its faculty. The professors at the University of Houston Law Center are not only outstanding educators and communicators but also exceptional legal scholars whose published work ranks among the nation's most cited in legal journals and judicial opinions.

I am proud, on behalf of the Law Center, to share this compilation of recent scholarship from our faculty, each of whom embodies excellence in legal education.



Richard M. **ALDERMAN**

PROFESSOR OF LAW, EMERITUS

RICHARD M. ALDERMAN & DEE PRIDGEN, *CONSUMER CREDIT AND THE LAW* (2022-2023 ed.).

RICHARD M. ALDERMAN, JOLINA C. CUARESMA & DEE PRIDGEN, *CONSUMER PROTECTION AND THE LAW* (2022-2023 ed.).

RICHARD M. ALDERMAN, *THE LAWYER'S GUIDE TO THE TEXAS DECEPTIVE TRADE PRACTICES ACT* (update Dec. 2022).



Emily **BERMAN**

PROFESSOR OF LAW, ROYCE R. TILL PROFESSORSHIP

STEPHEN DYCUS, WILLIAM C. BANKS, EMILY BERMAN, PETER RAVEN-HANSEN & STEPHEN I. VLADECK, *COUNTERTERRORISM LAW* (Supp. 2023-24).

Emily Berman, *The Foreign Intelligence Surveillance Act and the Court*, in ABA STANDING COMMITTEE ON LAW AND NATIONAL SECURITY, 60TH ANNIVERSARY, AN ANTHOLOGY (2023).

STEPHEN DYCUS, WILLIAM C. BANKS, EMILY BERMAN, PETER RAVEN-HANSEN & STEPHEN I. VLADECK, *NATIONAL SECURITY LAW* (Supp. 2023-24).

Emily Berman, *Reimagining Surveillance Law*, 2023 U. ILL. L. REV. 1235.



Johnny Rex **BUCKLES**

PROFESSOR OF LAW, MIKE AND TERESA BAKER COLLEGE PROFESSOR

Johnny Rex Buckles, *Constitutional Law and Tax Expenditures: A Prelude*, 76 ARK. L. REV. 1 (2023).

DAVID WESTFALL, GEORGE MAIR & JOHNNY REX BUCKLES, *ESTATE PLANNING LAW AND TAXATION* (5th ed. Fall 2022 Supp.).

DAVID WESTFALL, GEORGE MAIR & JOHNNY REX BUCKLES, *ESTATE PLANNING LAW AND TAXATION* (5th ed. Spring 2023 Supp.).

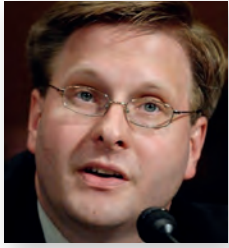
Daniel I. Morales

Associate Professor of Law, Dwight Olds Chair

A First Amendment Law for Migrant Emancipation, 56
GA. L. REV. 1401 (2023).

The Speech Clause of the First Amendment bears tremendous promise to bring about social change. That potential, however, has all too often been distributed unequally, with historically disadvantaged groups experiencing greater constraints on their ability to use speech as a tool for empowerment. Professor Daniel Morales' article focuses on one particular historically disadvantaged group—immigrants—and asks the provocative question how Speech Clause law needs to change to realize fully its capacity to allow this group to grasp its aspiration of becoming part of the American polity. This new vision of an “emancipatory” First Amendment would require law to jettison longstanding doctrinal principles. It would entail, Morales argues, taking action seriously as a form of speech and considering the social status of the speaker when evaluating rights claims. Embracing this radical reimagination of the First Amendment would, however, have the tremendous upside of finally realizing the transformative potential of speech not only for the privileged, but for all members of our republic.





Darren BUSH

LEONARD B. ROSENBERG COLLEGE PROFESSOR OF LAW

Darren Bush & Mark Glick, *Breaking up Consumer Welfare's Antitrust Policy Monopoly*, 56 SUFFOLK U.L. REV. 203 (2023).

Mark Glick, Gabriel A. Lozada & Darren Bush, *Why Economists Should Support Populist Antitrust Goals*, 2023 UTAH L. REV. 769.



Seth J. CHANDLER

LAW FOUNDATION PROFESSOR OF LAW

SETH J. CHANDLER, QUERY: GETTING INFORMATION FROM DATA WITH THE WOLFRAM LANGUAGE (2023).

Seth J. Chandler, Emily A. Muenster & Daniel Lichtblau, *Who Really Wrote Martin v. Hunter's Lessee? Applying a Machine Learning Ensemble to Uncover a Chief Justice's Unethical Behavior*, in NINETEENTH INTERNATIONAL CONFERENCE ON ARTIFICIAL INTELLIGENCE IN LAW CONFERENCE PROCEEDINGS 62 (2023).



David CRUMP

JOHN B. NEIBEL PROFESSOR OF LAW

David Crump, *Adjudication by Deadline*, 55 SETON HALL L. REV. 475 (2022).

DAVID CRUMP, PAUL F. ROTHSTEIN & RONALD J. COLEMAN, EVIDENCE IN A NUTSHELL (7th ed. 2022).

David Crump, *How Should Rape Laws Be Written in the Twenty-First Century?*, 56 CREIGHTON L. REV. 249 (2023).

David Crump, *In Favor of Settlement*, 17 CHARLESTON L. REV. 1 (2022).

Crump, Continued

WILLIAM V. DORSANEO, III, ELIZABETH G. THORNBURG, ELAINE GRAFTON CARLSON & DAVID CRUMP, *TEXAS CIVIL PROCEDURE: PRETRIAL LITIGATION* (2022-23 ed.).

WILLIAM V. DORSANEO, III, ELIZABETH G. THORNBURG, ELAINE GRAFTON CARLSON & DAVID CRUMP, *TEXAS CIVIL PROCEDURE: TRIAL AND APPELLATE PRACTICE* (2022-23 ed.).



**David R.
Dow**

CULLEN PROFESSOR OF LAW

DAVID R. DOW & CRAIG SMYSER, 49 *TEXAS PRACTICE SERIES: CONTRACT LAW* (2022-23 Supp.).



**MICHAEL S.
EWER**

PROFESSOR OF PRACTICE

Michael S. Ewer & Steven M. Ewer, *Arrhythmia in Bruton Tyrosine Kinase Inhibitor-Treated Patients: Unanswered Questions*, 68 *CHEMOTHERAPY* 168 (2023).

Michael S. Ewer, Nicolas L. Palaskas & Jay Herson, *Cardiac Monitoring Guidelines in Clinical Trials and Post-Approval Surveillance for Patients Exposed to Anticancer Treatments: Do the Data Support the Recommendations?*, 386 *J. PHARMACOLOGY & EXPERIMENTAL THERAPEUTICS* 164 (2023).

Michael S. Ewer, *Cardiac Safety of Dual Anti-HER2 Blockade with Pertuzumab Plus Trastuzumab in Early HER2-Positive Breast Cancer in the APHINITY Trial*, 8 *ESMO OPEN* 100772 (2023).

Michael S. Ewer et al., *Case Reports in Cardio-oncology: 2022*, 10 *FRONTIERS CARDIOVASCULAR MED.* 1235015 (2023).

Ilana Schlam, Michael S. Ewer & Sandra M. Swain, *Potential and Pitfalls of Pharmacovigilance Databases in Oncology*, 5 *JACC CARDIOONCOLOGY* 99 (2023).

Laura Portuondo

Assistant Professor of Law

Effecting Free Exercise and Equal Protection,

72 DUKE L.J. 1493 (2023).



For some time, the Supreme Court has insisted on an effect-neutral reading of both the Free Exercise and Equal Protection Clauses. If a law is facially neutral and lacks a discriminatory purpose, the Court has declined to hold that it violates either Clause—even if it has negative effects on members of some faith or of a protected class. Recent Free Exercise cases, though, show increased solicitude for considering the effect of a law on religious observance. Professor Laura Portuondo leverages this trend to argue that the Court should also consider the effects of laws on protected classes in its Equal Protection jurisprudence. She shows that both Free Exercise and Equal Protection cases have historically rested on shared theoretical and doctrinal foundations and demonstrates that the Court’s recently articulated reasons for considering effects in the Free Exercise context warrant consideration of effects in the Equal Protection setting as well. Portuondo acknowledges that doing so would necessitate doctrinal reforms, such as lowering the level of

scrutiny that has long been afforded to both Free Exercise and Equal Protection claims. She argues, though, that such a change would be a welcome way to consider a broader array of rights claims and make recognition of such claims easier. And even if the current Court is not open to such arguments in the Equal Protection context, Portuondo highlights the promising possibility that other government or popular actors may be.



Dave
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BAKER BOTTS LLP PROFESSOR OF LAW

Saurabh Vishnubhakat & Dave Fagundes, *The Coming Copyright Judge Crisis*, 98 N.Y.U. L. REV. ONLINE 1 (2023).

Jorge Contreras & Dave Fagundes, *The Life Story Rights Puzzle*, 14 HARV. J. SPORTS & ENT. L. 153 (2023).



Leah
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RESEARCH ASSISTANT PROFESSOR

Leah Fowler & Michael R. Ulrich, *Femtechnodystopia*, 75 STAN. L. REV. 1233 (2023).

Leah Fowler, *Health App Lemons*, 74 ALA. L. REV. 1 (2022).

Leah Fowler & Jessica L. Roberts, *Mind the App*, 31 ANNALS HEALTH L. 143 (2022).

Jessica L. Roberts, Leah Fowler & Paul S. Appelbaum, *Unlimited Medical Liability?*, 72 EMORY L.J. ONLINE 1 (2022).



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GOMEZ

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Alissa Gomez, *The Feminist-Neutrality Paradox*, 127 DICK. L. REV. 673 (2023).



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Nikolas Guggenberger, § 30 *Verbraucherkredite* [Consumer Loans], in *DSGVO MIT BDSG: HANDKOMMENTAR* [GDPR and German Data Protection Act: Treatise] (Gernot Sydow & Nikolaus Marsch eds., 2022).

Nikolas Guggenberger, § 31 *Schutz des Wirtschaftsverkehrs bei Scoring und Bonitätsauskünften* [Protection of Commercial Transactions in the Case of Scoring and Credit Reports], in *DSGVO MIT BDSG: HANDKOMMENTAR* [GDPR and German Data Protection Act: Treatise] (Gernot Sydow & Nikolaus Marsch eds., 2022).

Nikolas Guggenberger, *Algorithmic Decisions Between Process and Fairness: A Transatlantic Perspective*, in *KÜNSTLICHE INTELLIGENZ - ETHIK UND RECHT* [Artificial Intelligence – Ethics and Law] (Thomas Hoeren & Stefan Pinelli eds., 2022).

Nikolas Guggenberger, *U.S. Data Strategy*, in *GLOBAL DATA STRATEGIES* (Moritz Hennemann ed., 2023).



Tracy HESTER

INSTRUCTIONAL ASSOCIATE PROFESSOR OF LAW

Tracy Hester, *Carbon Capture and Sequestration and Carbon Dioxide Removal*, in *GLOBAL CLIMATE CHANGE AND U.S. LAW* (Michael Gerrard, Jody Freeman & Michael Harlan Berger eds., 3d ed. 2022).

Tracy Hester, *Ecoworship and Federal Environmental Law*, 48 COLUM. J. ENVTL. L. 311 (2023).

Tracy Hester & Kirsten Williams, *The Law of Greenhouse Gas Removal*, in *RESEARCH HANDBOOK ON CLIMATE CHANGE MITIGATION LAW* (Leonie Reins & Jonathan Verschuuren eds., 2022).

Tracy Hester, *Privilege by Design: A Proposal to Use Experimental Jurisprudence to Define Environmental Self-Audit Protection*, 72 SYRACUSE L. REV. 1267 (2022).



Renee Knake JEFFERSON

PROFESSOR OF LAW, JOANNE AND LARRY DOHERTY CHAIR IN LEGAL ETHICS

Renee Knake Jefferson, *Mentored: On Legacies, Leaders, and Legal Ethics*, 91 FORDHAM L. REV. 1285 (2023).

Renee Knake Jefferson & Russell G. Pearce, *Not the End of Lawyers, But a Beginning—The Place of Entrepreneurship and Innovation in Legal Ethics*, in LEADING WORKS IN LEGAL ETHICS (Julian Webb ed. 2023).

RENEE KNAKE JEFFERSON, RUSSELL G. PEARCE, BRUCE A. GREEN, PETER A. JOY, SUNG HUI KIM, M. ELLEN MURPHY, LAUREL S. TERRY, LONNIE T. BROWN JR. & SWETHAA S. BALLAKRISHNEN, PROFESSIONAL RESPONSIBILITY: A CONTEMPORARY APPROACH (5th ed. 2023).

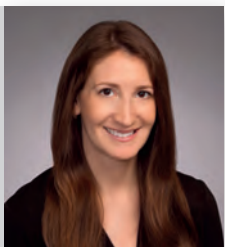
RENEE KNAKE JEFFERSON, RUSSELL G. PEARCE, BRUCE A. GREEN, PETER A. JOY, SUNG HUI KIM, M. ELLEN MURPHY, LAUREL S. TERRY, LONNIE T. BROWN JR. & SWETHAA S. BALLAKRISHNEN, TEACHER'S MANUAL FOR PROFESSIONAL RESPONSIBILITY: A CONTEMPORARY APPROACH (5th ed. 2023).



Craig JOYCE

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Valerie Gutmann KOCH

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Valerie Gutmann Koch, *Medical Harm Without Negligence*, 91 FORDHAM L. REV. 795 (2022).

Valerie Gutmann Koch et al., *The Trauma of Illegal Abortions and Forced Pregnancy: Urgent Implications for Acute Care Surgeons*, 8 TRAUMA SURGERY & ACUTE CARE OPEN e001067 (2023).

Abigail P. Sneider, Valerie Gutmann Koch & Peter Angelos, *Two-Physician Consent in Surgery*, 278 ANNALS SURGERY e214 (2023).



David Kwok

ASSOCIATE PROFESSOR OF LAW, GEORGE A. BUTLER RESEARCH
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David Kwok, *Trends in Prosecution of Federal and State Public Corruption*, 2 STETSON BUS. L. REV. 30 (2023).



Jessica Lind MANTEL

PROFESSOR OF LAW, GEORGE A. BUTLER LEGAL RESEARCH PROFESSOR

Jessica Lind Mantel, *Age Is More than Just a Number: A Legal and Ethical Defense of Age-Based Triage Protocols*, 111 KY. L.J. 387 (2023).

Jessica Lind Mantel, Lauren Caverly-Pratt & Grace Benitone, *The Legal Role in Building Sustainable Public Health*, 6 BELMONT HEALTH L.J. 43 (2022).

Jessica Lind Mantel, *An Overlooked Argument for A Single-Payer Healthcare System: Eliminating Misalignment Among Payment Models*, 32 ANNALS HEALTH L. & LIFE SCI. 101 (2023).

Jessica Lind Mantel & Jasmine Singh, *Why a Sustainable Public Health System Needs Community-Based Integrated Health Teams*, 6 BELMONT HEALTH L.J. 75 (2022).



Ryan MARQUEZ

CLINICAL ASSOCIATE PROFESSOR

ROSEMARY JACKSON, STEVEN KENNEDY, RYAN MARQUEZ & JEFFREY TOMPKINS, O'CONNOR'S TEXAS PROPERTY CODE PLUS (2022-2023 ed.).

Peter N. Salib

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Big Data Affirmative Action, 117 Nw. U.L. REV.
821 (2023).

Discrimination remains a persistent problem in American society despite decades of efforts to combat it. Affirmative action is one such antidiscrimination tool that is increasingly dismissed as practically ineffective and legally invalid. In this article, Professor Peter Salib argues that artificial intelligence has the potential to remedy both of these critiques of affirmative action and to chart a promising pathway toward ameliorating discrimination. He first shows how big data could work to provide a targeted, precise form of affirmative action. It could, for example, adjust Black prisoners' sentences down or women's salaries up to reflect a specifically quantified level of harm. Next, Salib shows that such an approach

would have both efficacy and legal validity. Unlike other ameliorative measures like antibias training that have debatable effects, AI-driven affirmative action would operate directly on injustices to remedy them. This approach would also survive the Supreme Court's various objections to affirmative action because it stands on solid empirical ground and is narrowly tailored to remedy specific injustices.





Douglas K. MOLL

BEIRNE, MAYNARD & PARSONS, L.L.P. PROFESSOR OF LAW

Elizabeth S. Miller & Douglas K. Moll, *Case Law Update: A Survey of Recent Texas Partnership and LLC Cases*, in 2023 LLCs, LPs, AND PARTNERSHIPS CONFERENCE (2023).

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DOUGLAS K. MOLL, *CORPORATIONS AND OTHER BUSINESS ASSOCIATIONS: STATUTES, RULES, AND FORMS* (2023).

DOUGLAS K. MOLL & COLIN P. MARKS, *THE LAW OF BUSINESS TORTS AND UNFAIR COMPETITION* (2d ed. 2023).

ROBERT B. THOMPSON & DOUGLAS K. MOLL, *O'NEAL AND THOMPSON'S OPPRESSION OF MINORITY SHAREHOLDERS AND LLC MEMBERS* (2023 Supp.).

ELIZABETH S. MILLER, ROBERT A. RAGAZZO & DOUGLAS K. MOLL, *19-20A TEXAS PRACTICE SERIES: BUSINESS ORGANIZATIONS* (2022-23 Supp.).



Daniel I. MORALES

ASSOCIATE PROFESSOR OF LAW, DWIGHT OLDS CHAIR

Daniel I. Morales, *A First Amendment Law for Migrant Emancipation*, 56 GA. L. REV. 1401 (2022).

Daniel I. Morales, *Postmodern Identity and the Structure of Immigration Control*, in *THEORIZING LOCAL MIGRATION LAW AND GOVERNANCE* (Moritz Baumgärtel & Sara Miellet eds., 2022).



James D. NELSON

ASSOCIATE PROFESSOR OF LAW AND BUSINESS, VINSON & ELKINS
PROFESSORSHIP

Elizabeth Sepper & James D. Nelson, *Government's Religious Hospitals*, 109 VA. L. REV. 61 (2023).

Elizabeth Sepper & James D. Nelson, *Religion Law and Political Economy*, 108 IOWA L. REV. 2341 (2023).

James D. Nelson, *The Separation of Ownership and Conscience*, 48 J. CORP. L. 577 (2023).



J. Thomas OLDHAM

JOHN H. FREEMAN PROFESSOR OF LAW

J. Thomas Oldham, *Changing Norms in the United States for Resolving Custody Disputes Between a Parent and a Non-Parent*, 35 J. AM. ACAD. MATRIMONIAL LAWS. 299 (2022).

J. Thomas Oldham & Bruce Smyth, *Child Support in the 21st-Century: The Importance of Flexibility in Changing Times*, in FAMILY MATTERS: ESSAYS IN HONOUR OF JOHN EEKELAAR (Jens M. Scherpe & Stephen Gilmore eds., 2022).

LINDA D. ELROD, J. THOMAS OLDHAM & JAMIE R. ABRAMS, FAMILY LAW: CASES, COMMENTS, AND QUESTIONS (9th ed. 2023).

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J. THOMAS OLDHAM, DIVORCE, SEPARATION AND THE DISTRIBUTION OF PROPERTY (Supp. Fall 2022).

J. Thomas Oldham, *The Surprising Lack of Consensus Under US Law for the Award of Spousal Support After Divorce*, in INTERNATIONAL SURVEY OF FAMILY LAW 2022 (Robin Fretwell Wilson & June Carbone eds., 2022).



Laura PORTUONDO

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Laura Portuondo, *Effecting Free Exercise and Equal Protection*, 72 DUKE L.J. 1492 (2023).

Kellen Zale

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The Anti-Tenancy Doctrine, 171 U. PA. L. REV. 267 (2023)
(with Sarah Schindler).



Laws across various doctrinal areas systematically disfavor tenants. In this piece, Professor Kellen Zale (along with Professor Sarah Schindler of the University of Denver Sturm College of Law) weave together these previously disaggregated sources of inequality to identify a previously unappreciated feature of property law they term the “anti-tenancy doctrine.” The authors begin by surveying laws affecting tenants from a variety of disparate areas from constitutional law to land use law to criminal law, showing how these doctrines systematically disadvantage tenants. They also highlight the costly consequences of these laws, which perpetuate income inequality, exacerbate racial injustice, and worsen the affordable housing crisis. Next, Professors Zale and Schindler trace the historic origins of the anti-tenancy doctrine. This analysis illustrates that the anti-tenancy doctrine is rooted in intentional law and policy choices that privilege landowners over tenants. Finally,

the authors chart a normative path out of the current anti-tenancy default that pervades American law. In particular, they caution against reflexively using housing tenure status as a basis for unequal legal treatment. In so doing, Professors Zale and Schindler suggest prescriptions that promise to move in the direction of greater parity for similarly situated tenants and landowners.



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ROBERT A. RAGAZZO, *CLOSELY HELD BUSINESS ORGANIZATIONS: CASES, MATERIALS, AND PROBLEMS* (3d ed. 2023 update).

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Jessica L. Roberts et al., *Cases in Precision Medicine: Is There an Obligation to Return Reinterpreted Genetic Results to Former Patients?*, 176 *ANNALS INTERNAL MED.* 563 (2023).

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Peter N. Salib, *Big Data Affirmative Action*, 117 Nw. U.L. REV. 821 (2022).

Peter N. Salib & Guha Krishnamurthi, *Jury Nullification in Abortion Prosecutions: An Equilibrium Theory*, 72 DUKE L.J. ONLINE 41 (2022).



Joseph **SANDERS**

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DAVID L. FAIGMAN, EDWARD K. CHENG, JENNIFER L. MNOOKIN, ERIN E. MURPHY, JOSEPH SANDERS & CHRISTOPHER SLOBOGIN, *MODERN SCIENTIFIC EVIDENCE: THE LAW AND SCIENCE OF EXPERT TESTIMONY* (2022-2023 ed.).

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Robert **SCHUWERK**

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William P. **STRENG**

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WILLIAM P. STRENG, ESTATE PLANNING PORTFOLIO 800-3RD T.M. (2023 update).

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Sandra Guerra **Thompson**

PROFESSOR OF LAW, NEWELL H. BLAKELY CHAIR

Sandra Guerra Thompson & Nicole Bremner Cásarez, *Debiasing Criminal Justice*, 31 WM. & MARY BILL RTS. J. 591 (2023).



Amanda **Watson**

ASSISTANT PROFESSOR OF LAW, ASSOCIATE LIBRARIAN, DIRECTOR OF THE LAW LIBRARY

Amanda Watson, Amanda Karel, Amanda Runyon & Leslie Street, *Demonstrating Law Library Value Through Mission-Centered Assessment*, 115 LAW LIBR. J. 5 (2023).

Amanda Watson, *The Unintended Consequences of Unintentional Datasets*, 114 LAW LIBR. J. 455 (2023).



Jacqueline Lang **WEAVER**

PROFESSOR OF LAW, EMERITA

ERNEST E. SMITH, JACQUELINE LANG WEAVER & OWEN L. ANDERSON, TEXAS LAW OF OIL AND GAS (2023 update).



Bret WELLS

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DANIEL L. SIMMONS, MARTIN J. McMAHON, BRADLEY BORDEN & BRET WELLS, *FEDERAL INCOME TAXATION* (2023 update).

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MARTIN J. McMAHON, DANIEL L. SIMMONS, CHARLENE D. LUKE & BRET WELLS, *FEDERAL INCOME TAXATION OF PARTNERSHIPS AND S CORPORATIONS* (2023 update).

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Bret Wells, *Reform of Section 367(a) and Section 367(b) in a Post-TCJA Era*, 23 Hous. Bus. & Tax L.J. 195 (2023).



Denney L. WRIGHT

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DENNEY L. WRIGHT & JULIE M. CHAPEL, *PORTFOLIO 512-2ND T.M., TAX INCENTIVES FOR PRODUCTION AND CONSERVATION OF ENERGY AND NATURAL RESOURCES* (2022-2023 update).



Kellen ZALE

ASSOCIATE PROFESSOR, GEORGE BUTLER RESEARCH PROFESSORSHIP

Sarah Schindler & Kellen Zale, *The Anti-Tenancy Doctrine*, 171 U. PA. L. REV. 267 (2023).

Kellen Zale, *Stadiums and State Environmental Policy Acts*, in *SPORTS STADIUMS AND ENVIRONMENTAL JUSTICE* (Timothy Kellison ed., 2023).





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