

# TRANSACTIONS

## THE TENNESSEE JOURNAL OF BUSINESS LAW

### ARTICLES

IS THE SKY REALLY FALLING? SHAREHOLDER-CENTRIC  
VERSUS DIRECTOR-CENTRIC CORPORATE GOVERNANCE

JOHN F. OLSON

BILLS OF SALE IN TENNESSEE:  
AN ANNOTATED MODEL TENNESSEE BILL OF SALE

JOAN MACLEOD HEMINWAY & J. ALLEN ROBERTS

NAMING A DEFENDANT IN AN ERISA ACTION

CANDACE BUDY & RICHARD BALES

MATERIAL ADVERSE CHANGE CLAUSES IN TENNESSEE:  
*GENESCO V. FINISH LINE*

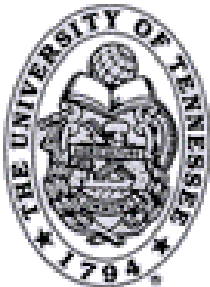
BRADLEY C. SAGRAVES & BOBAK TALEBIAN

BRAVING THE WATERS: A GUIDE FOR  
TENNESSEE'S ASPIRING ENTREPRENEURS

TRANSACTIONS: THE TENNESSEE JOURNAL OF BUSINESS LAW

### CASE COMMENTARIES

ANTITRUST, ARBITRATION, BANKRUPTCY, BUSINESS ASSOCIATIONS, COMMERCIAL  
LAW, LABOR & EMPLOYMENT, PROPERTY, SECURITIES REGULATION,  
TAX LAW, & WILLS & ESTATES



A PUBLICATION OF  
THE CLAYTON CENTER FOR ENTREPRENEURIAL LAW  
OF  
THE UNIVERSITY OF TENNESSEE COLLEGE OF LAW



---

VOLUME 9

SPRING 2008

NUMBER 2

# TRANSACTIONS

The Tennessee Journal of Business Law

VOLUME 9

SPRING 2008

NUMBER 2

## EXECUTIVE EDITORIAL BOARD

ELLEN R. NEESE  
*Managing Editor*

HOLLY N. MANCL  
*Editor in Chief*

KRISTY L. RICE  
*Executive Editor*

## SENIOR EDITORIAL BOARD

CHARLES R. FRAZIER  
*Senior Commentary Editor*

MATTHEW K. AVERY  
*News & Publications Editor*

## ASSISTANT EDITORS

T. WILLIAM A. CALDWELL  
*Articles & Research Editor*

REBECCA C. TAYLOR  
*Articles & Research Editor*

EMILY A. CLEVELAND  
*Articles & Research Editor*

JEREMY M. COTHERN  
*Articles & Research Editor*

DREW H. REYNOLDS  
*Articles & Research Editor*

JORDAN RAE SMITH  
*Articles & Research Editor*

## THIRD-YEAR MEMBERS

RUSSELL J. BLAIR  
J. SCOTT CHILDS  
PATRICK EARNEST  
RYAN C. EDENS  
WHITNEY L. FRAZIER  
JOHN L. FULLER  
DAVID GOODMAN  
KACY L. HUNT  
JASON J. ISAACSON

AARON J. KANDEL  
BURKE KEATY  
CARA E. LYNN  
JONATHAN L. MAY  
MELANIE McDAVID LAMB  
MARTHA S. McREE  
AMY E. MICHAELSON  
WILLIAM D. MOORE III

BEAU E. PEMBERTON  
WHITNEY L. QUARLES  
JONATHAN W. ROBBINS  
BRADLEY C. SAGRAVES  
JESSICA H. SHAFER  
BRETT T. SMITH  
BOBAK TALEBIAN  
ASHLEY N. THOMAS  
ALLISON A. WIEMER

## SECOND-YEAR MEMBERS

BAHAR AZHDARI  
JOHN BARNES  
AMBER BECTON  
MELISSA CHIARO  
DAVID N. DRAPER  
MARIA FOLEY  
MEGHAN FOWLER  
JENNIFER GOWER  
VERNON GUTHRIE  
JEREMY HALE  
ROMAN HANKINS  
STEPHEN D. HARGRAVES  
PATRICK HAWLEY

ROBERT HAZELWOOD  
BRADLEY J. HEARNE  
CATRINA HEWLETT  
NICHOLAS H. JACKSON  
CHAD JARBOE  
JOHN KARBAF  
KAREN KENNEY  
RACHEL E. LEVINSON  
ANTHONY LORIA  
CORINNE E. MARTIN  
JOSHUA MULLEN  
PATRICK W. NORTON  
ANDREW OLDHAM

VANESSA A. PATEL  
MELANIE A. PRINCE  
JOHN J. RADACSY IV  
PETER RIPLEY  
BETHANY K. SCOTT  
CHRISTOPHER SHERMAN  
WALT SIEDENTOPF  
SCOTT E. SIMMONS  
SHELTON C. SWAFFORD  
LINDSEY M. VAUGHAN  
KATHERINE WELLBORN  
GEORGE R. WHITFIELD III  
TAYLOR WILLIAMS

## FACULTY ADVISOR

PROFESSOR GEORGE W. KUNEY  
DIRECTOR, THE CLAYTON CENTER FOR  
ENTREPRENEURIAL LAW

# TRANSACTIONS

THE TENNESSEE JOURNAL OF BUSINESS LAW

ISSN 4486-1457. *Transactions: The Tennessee Journal of Business Law* is published semi-annually and edited by students of the University of Tennessee College of Law. The publisher is Transactions: The Tennessee Journal of Business Law, Inc., c/o The Clayton Center for Entrepreneurial Law, 1505 W. Cumberland Ave., Knoxville, Tennessee 37996-1810. The domestic subscription rate is \$20.00 per volume, \$10.00 per single issue; foreign subscription is \$25.00 per volume, \$15.00 per single issue, plus postage. Unless notice to the contrary is received, *Transactions: The Tennessee Journal of Business Law* assumes that a renewal of the subscription is desired. All claims of non-receipt of an issue should be made within six months of date of publication if claimant wishes to avoid paying for the missing issue. To order back issues, contact William S. Hein & Co., Inc. at 1285 Main Street, Buffalo NY 14209-1987, or call toll free at (800) 828-7571. POSTMASTER: Send address changes to: *Transactions: The Tennessee Journal of Business Law*, c/o The Clayton Center for Entrepreneurial Law, 1505 W. Cumberland Ave., Knoxville, Tennessee 37996-1810.

The University of Tennessee College of Law does not discriminate on the basis of race, sex, color, religion, national origin, age, handicap, or veteran status in provision of educational opportunities or employment opportunities and benefits. The UT College of Law does not discriminate on the basis of sex or handicap in its educational programs or activities, pursuant to requirements of Title IX of the Educational Amendments of 1972, Public Law 92-318, and Section 504 of the Rehabilitation Act of 1973, Public Law 93-112, and the Americans With Disabilities Act of 1990, Public Law 101-336. This Policy extends to both employment by and admission to the University. Inquiries concerning Title IX, Section 104, and the Americans With Disabilities Act should be directed to the Office of Equity and Diversity ("OED") at 1840 Melrose Avenue, Knoxville, TN 37996-3560; or telephone (865) 974-2498. Charges of violations of the above policy should also be directed to OED.

*Copyright © 2008 Transactions: The Tennessee Journal of Business Law, Inc.*

# THE UNIVERSITY OF TENNESSEE

## COLLEGE OF LAW

### UNIVERSITY ADMINISTRATION

JOHN D. PETERSEN, B.S., Ph.D..... *President*  
LOREN W. CRABTREE, B.A., Ph.D..... *Chancellor and Vice President for Academic Affairs*

### COLLEGE OF LAW ADMINISTRATION

JOHN L. SOBIESKI, JR., B.S., J.D..... *Interim Dean and  
Lindsay Young Distinguished Professor of Law*  
DOUGLAS A. BLAZE, B.S., J.D..... *Interim Associate Dean for Academic Affairs,  
Art Stolnitz Distinguished Professor of Law, and  
Elvin E. Overton Distinguished Professor of Law*  
DOLORES WHITERS, B.A., J.D..... *Interim Assistant Dean for Student Affairs*  
JERRY P. BLACK, JR., B.A., J.D..... *Interim Director of Clinical Programs and  
Associate Professor of Law*  
PENNY J. WHITE, B.S., J.D., LL.M..... *Director of The Center for Advocacy and Dispute Resolution and  
Associate Professor of Law*  
GEORGE W. KUNEY, B.A., J.D., M.B.A..... *Director of The Clayton Center for Entrepreneurial Law and  
Associate Professor of Law*  
CAROL M. PARKER, B.S., M.A., J.D..... *Director of Legal Writing and Associate Professor of Law*  
WILLIAM J. BEINTEMA, B.B.A., J.D., M.S.L.S..... *Director of the Law Library and Associate Professor*  
D. CHERYN PICQUET, B.A., M.S.L.S..... *Associate Director of the Law Library and Professor*  
REBA A. BEST, B.S., M.L.S..... *Head of Cataloging for the Law Library and Professor*  
KAREN REAGAN BRITTON, B.S., M.S., Ed.D..... *Director of Admissions, Financial Aid, and Career Services*  
HOWARD AVERY, B.S., M.Ed..... *Director of Development and Alumni Affairs*  
R.G. SMITHSON, B.S., M.S..... *Director of Public Affairs*  
TERESA L. PETERSON, B.S..... *Budget Director*  
WILLIAM HODGES, B.S..... *Computer, Electronic Services, and  
Networking Manager of the Law Library*  
MARY ANN JAMES..... *Human Resources and Administration Manager*

### COLLEGE OF LAW FACULTY

DWIGHT L. AARONS, B.A., J.D.,  
*Associate Professor of Law*  
GARY L. ANDERSON, S.B., J.D., LL.M.,  
*Associate Professor of Law*  
BENJAMIN H. BARTON, B.A., J.D.,  
*Associate Professor of Law*  
WILLIAM J. BEINTEMA, B.B.A., J.D., M.S.L.S.,  
*Associate Professor of Law and Director of the Law Library*  
REBA A. BEST, B.S., M.L.S.,  
*Professor and Head of Cataloging for the Law Library*  
JERRY P. BLACK, JR., B.A., J.D.,  
*Associate Professor of Law and  
Interim Director of Clinical Programs*  
DOUGLAS A. BLAZE, B.S., J.D.,  
*Art Stolnitz Distinguished Professor of Law,  
Elvin E. Overton Distinguished Professor of Law, and  
Interim Associate Dean for Academic Affairs*  
ROBERT C. BLITT, B.A, M.A., J.D., LL.M.,  
*Associate Professor of Law*  
CATHLEEN COCHRAN, B.A., M.S.I.S.,  
*Associate Professor and Computer Services Librarian*  
CAROL MORGAN COLLINS, B.A., M.S.,  
*Assistant Professor and Catalog Librarian*  
JOSEPH G. COOK, A.B., J.D., LL.M.,  
*Willford Gragg Distinguished Professor of Law*  
JUDY M. CORNETT, B.A., J.D., M.A., Ph.D.,  
*Associate Professor of Law*  
THOMAS Y. DAVIES, B.A., M.A., J.D., Ph.D.,  
*UT National Alumni Professor of Law*  
IRIS J. GOODWIN, A.B., Ph.D., J.D.,  
*Associate Professor of Law*  
JOAN MACLEOD HEMINWAY, A.B., J.D.,  
*Associate Professor of Law*  
JENNIFER S. HENDRICKS, B.A., J.D.,  
*Associate Professor of Law*  
AMY MORRIS HESS, B.A., J.D.,  
*Waller Lansden Dortch & Davis Professor of Law and  
UTK Distinguished Service Professor of Law*  
JEFFREY M. HIRSCH, B.A., M.P.P., J.D.,  
*Associate Professor of Law*  
BECKY L. JACOBS, B.S., J.D.  
*Associate Professor of Law*  
DESERIEE A. KENNEDY, B.A., J.D., LL.M.,  
*Associate Professor of Law*  
JOSEPH H. KING, JR., B.A., J.D.,  
*Walter W. Bussart Professor of Law and  
UTK Distinguished Service Professor of Law*

GEORGE W. KUNEY, B.A., J.D., M.B.A.,  
*Associate Professor of Law and  
Director of The Clayton Center for Entrepreneurial Law*  
DON A. LEATHERMAN, B.A., J.D., LL.M.,  
*Associate Professor of Law*  
ROBERT M. LLOYD, B.S.E., J.D.,  
*Lindsay Young Distinguished Professor of Law*  
ALEX B. LONG, B.A., J.D.,  
*Associate Professor of Law*  
SIBYL MARSHALL, B.A., J.D., M.L.S.,  
*Assistant Professor and Reference Librarian*  
CAROL M. PARKER, B.S., M.A., J.D.,  
*Associate Professor of Law and Director of Legal Writing*  
D. CHERYN PICQUET, B.A., M.S.L.S.,  
*Professor and Associate Director of the Law Library*  
CARL A. PIERCE, B.A., J.D.,  
*Professor of Law*  
THOMAS E. PLANK, A.B., J.D.,  
*Professor of Law*  
NATHANIEL PRESTON, B.A., M.A., Ph.D.,  
*Writing Specialist*  
M. LORETTA PRICE, B.A., M.S.L.S.,  
*Associate Professor and Acquisitions Librarian*  
GARY PULSINELLI, A.B., Ph.D., J.D.,  
*Associate Professor of Law*

MAE C. QUINN, B.A., J.D., LL.M.,  
*Associate Professor of Law*  
GLENN H. REYNOLDS, B.A., J.D.,  
*Beauchamp E. Brogan Distinguished Professor of Law*  
DEAN HILL RIVKIN, A.B., J.D.,  
*Distinguished Professor of Law*  
JOHN L. SOBIESKI, JR., B.S., J.D.,  
*Lindsay Young Distinguished Professor of Law and  
Interim Dean*  
GREGORY M. STEIN, A.B., J.D.,  
*Woolf, McClane, Bright, Allen & Carpenter Distinguished  
Professor of Law*  
OTIS H. STEPHENS, A.B., Ph.D., J.D.,  
*Resident Scholar in Constitutional Law and  
Alumni Distinguished Service Professor of Political Science*  
MAURICE E. STUCKE, A.B., J.D.,  
*Associate Professor of Law*  
PENNY J. WHITE, B.S., J.D., LL.M.,  
*Associate Professor of Law and  
Interim Director of The Center for Advocacy and Dispute  
Resolution*  
PAULETTE J. WILLIAMS, B.A., J.D.,  
*Associate Professor of Law*

#### FACULTY EMERITI

FRANCES LEE ANSLEY, B.A., J.D., LL.M.,  
*Distinguished Professor of Law*  
NEIL PHILIP COHEN, B.A., J.D., LL.M.,  
*UTK Distinguished Service Professor of Law and  
W.P. Toms Professor of Law*  
GRAYFRED B. GRAY, B.A., J.D.,  
*Associate Professor of Law*  
PATRICK HARDIN, B.A., J.D.,  
*W. Allen Separk Distinguished Professor of Law*  
RICHARD S. WIRTZ, B.A., M.P.A., J.D.,  
*Elvin E. Overton Distinguished Professor of Law*

# TRANSACTIONS

The Tennessee Journal of Business Law

---

VOLUME 9

SPRING 2008

NUMBER 2

---

## CONTENTS

BUSINESS FACULTY NOTES 287

### ARTICLES

IS THE SKY REALLY FALLING? SHAREHOLDER-CENTRIC VERSUS  
DIRECTOR-CENTRIC CORPORATE GOVERNANCE *John F. Olson* 295

BILLS OF SALE IN TENNESSEE: AN ANNOTATED MODEL  
TENNESSEE BILL OF SALE *Joan MacLeod Hemmway*  
*& J. Allen Roberts* 305

NAMING A DEFENDANT IN AN ERISA ACTION *Candace Budy*  
*& Richard Bales* 317

MATERIAL ADVERSE CHANGE CLAUSES IN TENNESSEE:  
*GENESCO V. FINISH LINE* *Bradley C. Sagraves*  
*& Bobak Talebian* 343

BRAVING THE WATERS: A GUIDE FOR TENNESSEE'S ASPIRING  
ENTREPRENEURS *Transactions: The Tennessee*  
*Journal of Business Law* 367

### CASE COMMENTARIES

ANTITRUST, ARBITRATION, BANKRUPTCY, BUSINESS  
ASSOCIATIONS, COMMERCIAL LAW, LABOR & EMPLOYMENT,  
PROPERTY, SECURITIES REGULATION, TAX LAW, & WILLS AND  
ESTATES 453

---

## BUSINESS FACULTY NOTES

---



**Professor Iris J. Goodwin** spent the Fall 2007 term visiting at the University of Richmond Law School where she taught Property for first-year students, in addition to Gratuitous Transfers. In the Spring 2008 term she has taught Estate Planning. Her most recent paper, “Ask Not What Your Charity Can Do for You,” will be published in the University of Arizona Law Review. The paper examines the challenges of cy pres reform by centering on the lawsuit by the Robertson family against Princeton University regarding a restricted purpose gift. The gift (which now represents 6% of Princeton's endowment) was made by the family in 1962 in answer to President Kennedy's “Ask not what your country can do for you” charge. The Robertsons allege that Princeton has misapplied the gift and request the court return the funds to a family foundation to be re-granted to other universities willing to apply them consistent with the stipulated mission. The article was also accepted by a peer-reviewed journal. Finally, Professor Goodwin has joined Professors Melanie B. Leslie (Visiting Prof., Columbia Law) and Stewart E. Sterk (Cardozo), among others, in an amicus brief on behalf of trust law and ERISA law professors in the Supreme Court case *Met Life v. Glenn*. The specific questions raised in the case are 1) whether an insurance company that both determines eligibility for employee benefits and pays those benefits acts under a conflict of interest, and if so, 2) what weight should a court give that conflict when evaluating an employee's claim that the plan administrator abused its discretion in denying the employee's claim. The bulk of the brief address trust law issues. The case will be argued on April 23.



**Professor Joan Heminway** was a featured presenter at a symposium at William & Mary's Marshall-Wythe School of Law entitled “Not That Kind of Girl: The Legal Treatment of Women Defying Traditional Gender Roles” this February. Her presentation focused on her paper, “Female Investors and Securities Fraud: Is the Reasonable Investor a Woman?” which revisits the conception of the reasonable investor in light of increasing participation by women in securities trading transactions. The paper will be published in Volume XV, Issue 2 of the *William & Mary Journal of Women and the Law*. In mid-March, Professor Heminway delivered a brief telephonic lecture and participated in a subsequent Q&A discussion session on legal issues relating to the litigation against and involving Enron's corporate fraud at a University of Arizona continuing education course entitled, “Trials of the Centuries – Part V.” At the end

of March, Professor Heminway spoke on a panel for a continuing legal education program sponsored by the Knoxville Bar Association. The topic of the panel was “Expectations - New Associates vs. The Firm; Investing in New Associates - Costs & Employee Retention.” The panel was part of a larger program entitled “You Know You're My #1 – You, The Practice, & The Client (The Challenges of Balancing the Practices of Law & Life With an Eye in The Ethics Rule).” In April, Professor Heminway participated in a continuing legal education program sponsored by the Tennessee Bar Association entitled “Drafting Boilerplate.”

---



**Professor Amy Morris Hess** spoke at the Knoxville Estate Planning Council in January 2008 on the topic “Estate Planning for the Baby Boomers; Will They Have Estates to Plan?” She has just completed the 2008 pocket parts for the multi-volume treatise, BOGERT, THE LAW OF TRUSTS AND TRUSTEES; these pocket parts will be published by Thomson-West this summer. In April 2008, she was the principal speaker at the second estate planning workshop organized by the students in the Business Clinic for low-income homeowners.

---



**Professor Jeff Hirsch** will be delivering a talk entitled, “Internet Use in the Workplace After the NLRB’s Decision in *Register-Guard*,” to the Law and Technology Committee of the ABA Labor and Employment Section in Chicago this May. His recent article, “The Law of Termination: Doing More With Less,” will be published in the Fall 2008 volume of the *Maryland Law Review*. Additionally, the *Yale Law Journal* Pocket Part published Professor Hirsch’s essay, “Taking States Out of the Workplace,” in April. Also in April, the *George Washington Law Review* published Professor Hirsch’s article, “The Silicon Bullet: Will the Internet Kill the NLRA?” and the *Florida State University Law Review* published his article, “The Rise and Fall of Private Sector Unionism: What Next for the NLRA?” co-authored with Barry Hirsch. Also, in March, *In Brief: The Online Magazine of the Virginia Law Review* published Professor Hirsch’s essay, “Rent-to-Own Unionism?” (<http://virginialawreview.org/inbrief.php?s=inbrief&p=2008/03/24/hirsch>) which was a response to Professor Matt Bodie’s article, “Information and the Market for Union Representation.”





**Professor George Kuney** has written three books published this spring: *Mastering Intellectual Property Law* (forthcoming Carolina Academic Press 2008, with Donna C. Looper), *Mastering Bankruptcy Law* (Carolina Academic Press 2008), and *Bamboozled: An Entrepreneur's Tale of Vindication and Disappointment in America's Courts* (Center for Entrepreneurial Law 2008). In addition, his article, "What Your Lender and Mortgage Broker Didn't Tell You: A Proposal for Increased Disclosure of Purchase Money Borrower Protections and their Loss on Refinance," is being published by the *Hastings Business Law Journal* in its Spring 2008 issue. He has served as *amicus* counsel to the plaintiff/appellant in *Schultz v. United States*, 369 B.R. 349 (E.D.TN. 2007) and *Shultz v. United States*, \_\_\_ F.3d \_\_\_ (6th Cir 2008) (challenge to constitutionality of Bankruptcy Code's "means test" on uniformity grounds). He was awarded the Carden Award for Outstanding Achievement in Scholarship for 2007 and will be speaking at Emory University's Transactional Practice Center's Contract Drafting Conference in May of 2008.



**Professor Becky Jacobs'** essay, "A Lexical Examination and (Unscientific) Survey of Expanded Clinical Experiences in U.S. Law Schools," will soon appear in the Tennessee Law Review as part of its Charles Miller Legal Clinic 60th Anniversary Symposium edition. Following her appearance on a panel addressing "Coalition Building, Globally and Locally" at the LatCrit VII in Miami in October 2007, Professor Jacobs contributed an article entitled, "Pareto Negativity: The Enemy of My Enemy is Not Necessarily My Friend - Latin Leadership, Coalition Building, and Predatory Globalization," that will appear in the St. Thomas Law Review. She will be speaking on a panel with Carol Parker and Judy Cornett at the Legal Writing Institute's Biennial Conference in Indianapolis in July and, with Professor Joan Heminway, she will be part of a workshop entitled, "Cutting Edge Legal Theory: Jurisprudence in Context," at the annual SEALS conference in July and August of 2008. Professor Jacobs also is grateful to participate again in the South African Black Lawyers Association Commercial Law training program in August 2008. Jacobs again coached student Moot Court teams in two separate competitions in 2007-2008: the ABA's Representation in Mediation Competition and the Philip C. Jessup International Law Moot Court team.



**Professor Don Leatherman** is currently revising a textbook on the taxation of corporations and partnerships, which will be published early in 2009. Professor Leatherman's article, "Gimme Fiction: Revenue Ruling 99-6," was published in the March issue of TAXES (Vol. 86, No. 3). In January, Professor Leatherman spoke at the American Bar Association tax section meeting, participating on a panel considering stock basis for consolidated groups.



**Professor Robert Lloyd** and Professor George Kuney are working on a series of commercial law course books to be published by the Clayton Center for Entrepreneurial Law. These books will be an affordable alternative to the books currently available from commercial publishers. Professor Lloyd's essay, "Why Every Law Student Should Be a Gunner," will appear in the January 2009 issue of the Arizona State Law Journal.



**Professor Alex B. Long's** article, "Retaliatory Discharge and the Ethical Rules Governing Attorneys," will be published in an upcoming issue of Volume 79 of the *University of Colorado Law Review*. Professor Long received the 2007 W. Allen Separk Faculty Scholarship Award for his article, "The Troublemaker's Friend: Retaliation Against Third Parties and the Right of Association in the Workplace," 59 FLA. L. REV. 931 (2007).



**Professor Carl Pierce** is currently working with University of Tennessee Professor Judy Cornett on a professional responsibility course book to be published by Thompson West in 2009. Professor Pierce is also currently serving as co-reporter for the Tennessee Bar Association's Committee on Ethics and Professional Responsibility, which is generating a proposed revision of Tennessee's Rules of Professional Conduct in light the changes adopted by the American Bar Association in 2003. Additionally, he is serving as chairperson of

both the Tennessee Valley Authority Board of Contract Appeals and the Tennessee Supreme Court Task Force on the Study of Self-Represented Litigant Issues. Professor Pierce is also currently working on two pieces concerning the ethical representation of persons and entities in the formation and organization of a corporation: one concerning joint representation in that context and the other one concerning representation of an entity to be formed without representation of any of the promoters.

---



**Professor Thomas Plank** gave a presentation entitled, “Sales of Mortgage Loans and Securitizations,” at a Federal Judicial Conference education program entitled, “The Current State of the Capital Markets: an FJC Program for Bankruptcy Judges” on March 5<sup>th</sup>. Professor Plank is currently being considered for selection to make another presentation for a Federal Judicial Conference education program in January 2009.

---



**Professor Gary Pulsinelli** has recently completed an article entitled *Harry Potter and the (Re)Order of the Artists: Are We Muggles or Goblins?* (available on Professor Pulsinelli’s SSRN page, <http://ssrn.com/author=880362>) and submitted it for publication. This paper reached first place for recent hits in SSRN’s *Journal of Property, Citizenship, & Social Entrepreneurism*, and it also appeared in the top ten of the more general *Law School Research Papers - Legal Studies*. He presented this paper in talks at Cumberland College of Law at Samford University and at the Gordon Ford College of Business at Western Kentucky University. Professor Pulsinelli is currently working on completing his article *Fixing Festo: How the Foreseeability Test for the Doctrine of Equivalents Punishes Innovation (and What to Do about It)*, which he presented last summer as a work in progress at the Intellectual Property Scholar’s conference held at DePaul University. He is also preparing to work on an article proposing a fix for the international “best mode” problem in patent law (the U.S. has such a requirement while the rest of the world does not, which can create hardships for foreign inventors) by relaxing the “new matter” prohibition in patent applications.



**Professor Gregory M. Stein** completed his one-year term as chair of the Real Estate Transactions Section of the Association of American Law Schools in January. At the AALS annual meeting in New York, he served as program chair and moderator for the Section's panel discussion, entitled "Negotiating the Mega-Rebuilding Deal at the World Trade Center: Teaching Teachers to Teach Students," and organized a trip to the World Trade Center site for approximately 30 law professors from around the country. Later that month, the American College of Real Estate Lawyers invited Professor Stein to serve as its observer on the Drafting Committee for the Uniform Partition of Tenancy-in-Common Act. This Act is being drafted to address a problem confronting increasing numbers of rural African American families: the forced sale of property that is jointly held by many distant relatives when one of those relatives goes into debt. Professor Stein's article, "Mortgage Law in China: Comparing Theory and Practice," contrasting the mortgage provisions of the newly adopted Chinese Property Rights Law with the actual practice of real estate practitioners in China, was published at 72 *Missouri Law Review* 1315 (2007). In March, Professor Stein gave a presentation at the Spring Meeting of the American College of Real Estate Lawyers in San Antonio. His talk discussed the ways in which law schools are increasingly incorporating skills training into the real property curriculum.

---



**Professor Maurice E. Stucke's** most recent article, "Should the Government Prosecute Monopolies?," will be published in the *University of Illinois Law Review* in March 2009. (A draft copy is available on SSRN at <http://ssrn.com/abstract=1116463>.) The piece discusses how the Supreme Court's economic thinking in a recent antitrust decision is wrong, and how the Court ignores its precedent involving the Sherman Act's concerns of monopolies' political, social and ethical implications. Professor Stucke will also present his article at the 8th Annual Loyola Antitrust Colloquium this April in Chicago. In addition, Professor Stucke participated this April in a Competition Policy Symposium on antitrust remedies and merger policy from a comparative EU-US perspective. This event, hosted by the British Institute of International and Comparative Law in London, included panelists from academia, competition authorities, and antitrust attorneys. The *European Competition Journal* will publish the transcript of this symposium. Finally, Professor Stucke was recently elected to the Advisory Board of the American Antitrust Institute, an independent, non-profit education, research, and advocacy organization devoted to competition policy. As chairman of the AAI committee on the media industries, Professor

Stucke is drafting a transition report for the next Administration on competition policy issues involving the media. He will present the committee's findings this June at the AAI's Annual National Conference in Washington, DC, and his report will be later published.

---



**Professor Paulette J. (Paula) Williams** teaches the Business Law Clinic. Her students represent for-profit and non-profit organizations, serving the dual purposes of educating law students in transactional practice as well as providing much needed legal services to the community. She is active in clinical legal education serving as the immediate Past President of the Clinical Legal Education Association and on the Executive Committee of the Clinical Section of the Association of American Law Schools. She is on the Planning Committee for the 2009 AALS Clinical Conference, and is co-chair of the Legal Educators Committee of the Forum on Affordable Housing and Community Development of the American Bar Association. Professor Williams has made, and is scheduled to make, presentations on clinical teaching methodology at the Society of American Law Teachers Conference, the Annual Conference of Transactional Clinicians, and the 2008 AALS Clinical Workshop. She is currently working on articles on affordable housing, teaching social justice, and financial counseling for low-income people.