



UNC
SCHOOL OF LAW

NORTH CAROLINA LAW REVIEW

Volume 85
Number 6 *North Carolina Issue*

Article 9

9-1-2007

Articles

North Carolina Law Review

Follow this and additional works at: <http://scholarship.law.unc.edu/nclr>



Part of the [Law Commons](#)

Recommended Citation

North Carolina Law Review, *Articles*, 85 N.C. L. REV. (2007).
Available at: <http://scholarship.law.unc.edu/nclr/vol85/iss6/9>

This Front Matter is brought to you for free and open access by Carolina Law Scholarship Repository. It has been accepted for inclusion in North Carolina Law Review by an authorized editor of Carolina Law Scholarship Repository. For more information, please contact law_repository@unc.edu.

INDEX TO VOLUME 85, NOS. 1–6, 2006–2007

ARTICLES

After the Catastrophe: Disaster Relief for Hospitals	223
Back to the Future: An Empirical Study of Child Custody Outcomes	1629
Can We at Least Have <i>Plessy</i> ? The Struggle for Quality Education	1279
Child Support Savings Accounts: An Innovative Approach to Child Support Enforcement	1155
Contract, Priority, and Odious Debt	727
<i>Crawford's</i> Triangle: Domestic Violence and the Right of Confrontation	1
Defending the Right of Self-Representation: An Empirical Look at the Pro Se Felony Defendant	423
Does Stare Decisis Apply in the Eighth Amendment Death Penalty Context?	847
Fixing Fair Use	1087
High-Poverty Schools and the Distribution of Teachers and Principals	1345
Litigated Learning, Law's Limits, and Urban School Reform Challenges	1419
On the Relationship Between Poverty and Curriculum	1381
Opportunity Gaps: The Injustice Underneath Achievement Gaps in Our Public Schools	1315
Parsing the Data on Student Achievement in High-Poverty Schools	1293
Poor Whites, Benevolent Masters, and the Ideologies of Slavery: The Local Trial of a Slave Accused of Rape	489
Poverty, "Meaningful" Educational Opportunity, and the Necessary Role of the Courts	1467
The Process Due Indefinitely Detained Citizens	1687
Reforming the Taxation of Deferred Compensation	571
The Social Costs of Mergers: Restoring "Local Control" as a Factor in Merger Policy	149
Socioeconomic School Integration	1545
Soft Power, Strategic Security, and International Philanthropy	773
Three Theories of Substantive Due Process	63
Tribal Bonds: Statutory Shackles and Regulatory Restraints on Tribal Economic Development	1009
The Trustee's Duty to Inform	1595

COMMENTS

Enemy Combatants in the War on Terror and the Implications for the U.S. Armed Forces	636
Is This Apple for Teacher an Apple from Eve? Reanalyzing the Intelligent Design Debate from a Curricular Perspective	349
The Securities Act of 1933 After SLUSA: Federal Class Actions Belong in Federal Court.....	669
<i>Smith’s</i> Hybrid Rights Doctrine and the <i>Pierce</i> Right: An Unintelligent Design.....	385
Teaching from the Closet: Freedom of Expression and Out-Speech by Public School Teachers	301
Using the Adversarial Process To Limit Arbitrariness in Capital Charging Decisions	931
Using the Implied License To Inject Common Sense into Digital Copyright	885

RECENT DEVELOPMENTS

Assigning Error to <i>Viar v. North Carolina Department of Transportation</i> and <i>State v. Hart</i> : A Proposal for Revision of the North Carolina Rules of Appellate Procedure	1799
The Devil They Know: The DOJ’s Flawed Antitrust Leniency Program and Its Curious Pursuit of Stolt-Nielsen.....	974
Forcing Urban Redevelopment To Proceed “Building by Building”: North Carolina’s Flawed Policy Response to <i>Kelo v. City of New London</i>	1784
The Future of Backdating Equity Options in the Wake of SEC Executive Compensation Disclosure Rules.....	1194
The Law of Alienation of Affections After <i>McCutchen v. McCutchen</i> : In North Carolina, Breaking Up Just Got Harder To Do	1761
<i>National Federation of the Blind v. Federal Trade Commission</i> : The Fourth Circuit’s Uncertain Scrutiny of the Telemarketing Sales Rule.....	1241
Seeing Through the Smoke and Fog: Applying a Consistent Public Duty Doctrine in North Carolina After <i>Myers v. McGrady</i>	706
Striking Back Against Retaliatory Discrimination: How <i>Burlington Northern & Santa Fe Railway Company v. White</i> Expands Protections for Employees Under Title VII’s Participation and Opposition Clauses.....	1224
We Are Not Amused: The Narrow Interpretation of Title II’s Place-of-Entertainment Provision in <i>Denny v. Elizabeth Arden Salons, Inc.</i>	1259
“What Is and What Should Never Be” Privileged in North Carolina: The Peer Review Privilege After <i>Armstrong v. Barnes</i>	1741

AUTHORS

Bradley, Lorrie E., Striking Back Against Retaliatory Discrimination: How <i>Burlington Northern & Santa Fe Railway Company v. White</i> Expands Protections for Employees Under Title VII’s Participation and Opposition Clauses	1224
Brunell, Richard M., The Social Costs of Mergers: Restoring “Local Control” as a Factor in Merger Policy	149
Carroll, Michael W., Fixing Fair Use	1087
Clarkson, Gavin, Tribal Bonds: Statutory Shackles and Regulatory Restraints on Tribal Economic Development	1009
Clotfelter, Charles, Helen F. Ladd, Jacob Vigdor & Justin Wheeler, High-Poverty Schools and the Distribution of Teachers and Principals	1345
Conkle, Daniel O., Three Theories of Substantive Due Process	63
DuBuisson, Eva, Teaching from the Closet: Freedom of Expression and Out-Speech by Public School Teachers	301
Ethridge, Ryan P., “What Is and What Should Never Be” Privileged in North Carolina: The Peer Review Privilege After <i>Armstrong v. Barnes</i>	1741
Everett, Sherry Honeycutt, The Law of Alienation of Affections After <i>McCutchen v. McCutchen</i> : In North Carolina, Breaking Up Just Got Harder To Do	1761
Feibelman, Adam, Contract, Priority, and Odious Debt	727
Gallanis, T.P., The Trustee’s Duty to Inform	1595
Gillmer, Jason A., Poor Whites, Benevolent Masters, and the Ideologies of Slavery: The Local Trial of a Slave Accused of Rape	489
Hackney, Mary Katherine, Is This Apple for Teacher an Apple from Eve? Reanalyzing the Intelligent Design Debate from a Curricular Perspective	349
Hashimoto, Erica J., Defending the Right of Self-Representation: An Empirical Look at the Pro Se Felony Defendant	423
Heise, Michael, Litigated Learning, Law’s Limits, and Urban School Reform Challenges	1419
Hitchcock, Amanda S., Using the Adversarial Process To Limit Arbitrariness in Capital Charging Decisions	931
Jenkins, Garry W., Soft Power, Strategic Security, and International Philanthropy	773
Kahlenberg, Richard D., Socioeconomic School Integration	1545
Ladson-Billings, Gloria J., Can We at Least Have <i>Plessy</i> ? The Struggle for Quality Education	1279
Levin, Henry M., On the Relationship Between Poverty and Curriculum	1381
Pearce, Carolyn A., Forcing Urban Redevelopment To Proceed “Building by Building”: North Carolina’s Flawed Policy Response to <i>Kelo v. City of New London</i>	1784

Petrusic, Michael, Enemy Combatants in the War on Terror and the Implications for the U.S. Armed Forces	636
Rebell, Michael A., Poverty, “Meaningful” Educational Opportunity, and the Necessary Role of the Courts	1467
Reynolds, Suzanne, Catherine T. Harris & Ralph A. Peeples, Back to the Future: An Empirical Study of Child Custody Outcomes	1629
Rich, Ryan, Seeing Through the Smoke and Fog: Applying a Consistent Public Duty Doctrine in North Carolina After <i>Myers v. McGrady</i>	706
Roessler, Michael F., We Are Not Amused: The Narrow Interpretation of Title II’s Place-of-Entertainment Provision in <i>Denny v. Elizabeth Arden Salons, Inc.</i>	1259
Rumberger, Russell W., Parsing the Data on Student Achievement in High-Poverty Schools.....	1293
Ryan, Meghan J., Does Stare Decisis Apply in the Eighth Amendment Death Penalty Context?	847
Seiman, John S., Using the Implied License To Inject Common Sense into Digital Copyright.....	885
Shipman, John D., The Future of Backdating Equity Options in the Wake of SEC Executive Compensation Disclosure Rules.....	1194
Snyder, William B., Jr., The Securities Act of 1933 After SLUSA: Federal Class Actions Belong in Federal Court	669
Still, Kyle, <i>Smith’s</i> Hybrid Rights Doctrine and the <i>Pierce</i> Right: An Unintelligent Design.....	385
Thill, Stephen D., Assigning Error to <i>Viar v. North Carolina Department of Transportation</i> and <i>State v. Hart</i> : A Proposal for Revision of the North Carolina Rules of Appellate Procedure	1799
Tobias, Carl, The Process Due Indefinitely Detained Citizens	1687
Tuerkheimer, Deborah, <i>Crawford’s</i> Triangle: Domestic Violence and the Right of Confrontation	1
Wallace, Monica Hof, Child Support Savings Accounts: An Innovative Approach to Child Support Enforcement	1155
Weeks, Elizabeth, After the Catastrophe: Disaster Relief for Hospitals.....	223
Wiener, Ross, Opportunity Gaps: The Injustice Underneath Achievement Gaps in Our Public Schools.....	1315
Williams, M. Ryan, The Devil They Know: The DOJ’s Flawed Antitrust Leniency Program and Its Curious Pursuit of Stolt-Nielsen.....	974
Yale, Ethan & Gregg D. Polsky, Reforming the Taxation of Deferred Compensation.....	571
Zufelt, Frederick R., <i>National Federation of the Blind v. Federal Trade Commission</i> : The Fourth Circuit’s Uncertain Scrutiny of the Telemarketing Sales Rule.....	1241

SUBJECTS

AMERICAN INDIAN LAW

Tribal Bonds: Statutory Shackles and Regulatory Restraints on Tribal Economic Development	1009
---	------

ANTITRUST LAW

The Devil They Know: The DOJ's Flawed Antitrust Leniency Program and Its Curious Pursuit of Stolt-Nielsen.....	974
--	-----

CONSTITUTIONAL LAW

<i>Smith's</i> Hybrid Rights Doctrine and the <i>Pierce</i> Right: An Unintelligent Design.....	385
---	-----

Three Theories of Substantive Due Process	63
---	----

CONTRACT LAW

Contract, Priority, and Odious Debt.....	727
--	-----

The Trustee's Duty to Inform.....	1595
-----------------------------------	------

COPYRIGHT LAW

Fixing Fair Use.....	1087
----------------------	------

Using the Implied License To Inject Common Sense into Digital Copyright	885
---	-----

CORPORATE LAW

Reforming the Taxation of Deferred Compensation	571
---	-----

The Future of Backdating Equity Options in the Wake of SEC Executive Compensation Disclosure Rules	1194
--	------

The Securities Act of 1933 After SLUSA: Federal Class Actions Belong in Federal Court.....	669
--	-----

The Social Costs of Mergers: Restoring "Local Control" as a Factor in Merger Policy.....	149
--	-----

DEATH PENALTY

Does Stare Decisis Apply in the Eighth Amendment Death Penalty Context?	847
---	-----

Using the Adversarial Process To Limit Arbitrariness in Capital Charging Decisions	931
--	-----

DISCRIMINATION

Striking Back Against Retaliatory Discrimination: How <i>Burlington Northern & Santa Fe Railway Company v. White</i> Expands Protections for Employees Under Title VII's Participation and Opposition Clauses.....	1224
--	------

We Are Not Amused: The Narrow Interpretation of Title II's Place-of-Entertainment Provision in <i>Denny v. Elizabeth Arden Salons, Inc.</i>	1259
---	------

DUE PROCESS

The Process Due Indefinitely Detained Citizens	1687
--	------

Three Theories of Substantive Due Process	63
---	----

EDUCATION LAW	
Can We at Least Have <i>Plessy</i> ? The Struggle for Quality Education.....	1279
High-Poverty Schools and the Distribution of Teachers and Principals.....	1345
Is This Apple for Teacher an Apple from Eve? Reanalyzing the Intelligent Design Debate from a Curricular Perspective	349
Litigated Learning, Law’s Limits, and Urban School Reform Challenges.....	1419
On the Relationship Between Poverty and Curriculum.....	1381
Opportunity Gaps: The Injustice Underneath Achievement Gaps in Our Public Schools	1315
Parsing the Data on Student Achievement in High-Poverty Schools	1293
Poverty, “Meaningful” Educational Opportunity, and the Necessary Role of the Courts	1467
Socioeconomic School Integration.....	1545
<i>Smith’s</i> Hybrid Rights Doctrine and the <i>Pierce</i> Right: An Unintelligent Design.....	385
Teaching from the Closet: Freedom of Expression and Out-Speech by Public School Teachers	301
EIGHTH AMENDMENT	
Does Stare Decisis Apply in the Eighth Amendment Death Penalty Context?	847
EMINENT DOMAIN	
Forcing Urban Redevelopment To Proceed “Building by Building”: North Carolina’s Flawed Policy Response to <i>Kelo v. City of New London</i>	1784
EMPLOYMENT LAW	
Striking Back Against Retaliatory Discrimination: How <i>Burlington Northern & Santa Fe Railway Company v. White</i> Expands Protections for Employees Under Title VII’s Participation and Opposition Clauses.....	1224
EVIDENCE	
<i>Crawford’s</i> Triangle: Domestic Violence and the Right of Confrontation.....	1
“What Is and What Should Never Be” Privileged in North Carolina: The Peer Review Privilege After <i>Armstrong v. Barnes</i>	1741
FAMILY LAW	
Back to the Future: An Empirical Study of Child Custody Outcomes.....	1629
Child Support Savings Accounts: An Innovative Approach to Child Support Enforcement	1155
The Law of Alienation of Affections After <i>McCutchen v. McCutchen</i> : In North Carolina, Breaking Up Just Got Harder To Do	1761
FEDERAL COURTS	
The Securities Act of 1933 After SLUSA: Federal Class Actions Belong in Federal Court.....	669

FIRST AMENDMENT

National Federation of the Blind v. Federal Trade Commission: The Fourth Circuit’s Uncertain Scrutiny of the Telemarketing Sales Rule..... 1241

Teaching from the Closet: Freedom of Expression and Out-Speech by Public School Teachers 301

HEALTH LAW

After the Catastrophe: Disaster Relief for Hospitals 223

INTERNATIONAL LAW

Contract, Priority, and Odious Debt 727

LEGAL HISTORY

Poor Whites, Benevolent Masters, and the Ideologies of Slavery: The Local Trial of a Slave Accused of Rape 489

NATIONAL SECURITY LAW

Enemy Combatants in the War on Terror and the Implications for the U.S. Armed Forces 636

The Process Due Indefinitely Detained Citizens 1687

Soft Power, Strategic Security, and International Philanthropy 773

NORTH CAROLINA RULES OF APPELLATE PROCEDURE

Assigning Error to *Viar v. North Carolina Department of Transportation* and *State v. Hart*: A Proposal for Revision of the North Carolina Rules of Appellate Procedure 1799

PROPERTY LAW

Forcing Urban Redevelopment To Proceed “Building by Building”: North Carolina’s Flawed Policy Response to *Kelo v. City of New London* 1784

SELF-REPRESENTATION

Defending the Right of Self-Representation: An Empirical Look at the Pro Se Felony Defendant 423

SLAVERY

Poor Whites, Benevolent Masters, and the Ideologies of Slavery: The Local Trial of a Slave Accused of Rape 489

TAX LAW

The Future of Backdating Equity Options in the Wake of SEC Executive Compensation Disclosure Rules 1194

Reforming the Taxation of Deferred Compensation 571

TORT LAW

Seeing Through the Smoke and Fog: Applying a Consistent Public Duty Doctrine in North Carolina After *Myers v. McGrady* 706

TRUST AND ESTATE LAW

The Trustee’s Duty to Inform 1595

