

## 2016-2017 Faculty Scholarship – as of November 30, 2017

### Published:

Brian A. Blum, *CONTRACTS: EXAMPLES AND EXPLANATIONS*, Wolters Kluwer (Seventh Edition) (2017)

Brian A. Blum, *CONTRACTS: CASES, DISCUSSION, AND PROBLEMS*, Wolters Kluwer (Fourth Edition) (2017) (co-authored with Amy Bushaw)

Brian A. Blum, *Equity's Leaded Feet in a Contest of Scoundrels: The Assertion of the In Pari Delicto Defense Against a Lawbreaking Plaintiff and Innocent Successors*, 44 HOFSTRA L. REV. 782 (2016)

Michael C. Blumm, *"No Ordinary Lawsuit:" Climate Change, Due Process, and the Public Trust Doctrine*, 67 AM. U. L. REV. 1 (2017) (co-authored with Mary C. Wood)

Michael C. Blumm, *"Coordinating" with the Federal Government: Assessing County Efforts to Control Decisionmaking on Public Lands*, 38 PUBLIC LAND AND RES. L. REV. 1 (2017) (co-authored with James Fraser)

Michael C. Blumm, *Still Crying Out For a "Major Overhaul" After All These Years – Salmon and Another Failed Biological Opinion on Columbia Basin Hydroelectric Operations*, 47 ENVTL. L. REV. 287 (2017) (co-authored with Julianne L. Fry and Olivier Jamin)

Michael C. Blumm, *The Public Trust as an Antimonopoly Doctrine*, 44 B.C. ENVTL. AFF. L. REV. 1 (2017) (co-authored with Aurora Paulsen)

Michael C. Blumm, *Indian Treaty Fishing Rights and the Environment: Affirming the Right to Habitat Protection and Restoration*, 92 WASH. L. REV. 1 (2017)

Michael C. Blumm, *The Property Clause and Its Discontents: Lessons from the Malheur Occupation*, 43 ECOLOGY L. Q. 781 (2016) (co-authored with Olivier Jamin)

Michael C. Blumm, *Two Wrongs? Correcting Professor Lazarus's Misunderstanding of the Public Trust Doctrine*, 46 ENVTL. L. 481 (2016)

Michael C. Blumm, *(Ground)Waters of the United States: Unlawfully Excluding Tributary Groundwater from Clean Water Act Jurisdiction*, 46 ENVTL. L. 333 (2016) (co-authored with Steven M. Thiel)

Michael C. Blumm, *Antimonopoly in American Public Land Law*, 28 GEO. ENVTL. L. REV. 155 (2016) (co-authored with Kara Tebeau)

Michael C. Blumm, *Federal Reserved Water Rights as a Rule of Law*, 52 IDAHO L. REV. 371 (2016)

Michael C. Blumm, *Horne v. Dept. of Agriculture: Expanding Per Se Takings While Endorsing State Sovereign Ownership*, 75 MD. L. REV. 657 (2016) (co-authored with John Echeverria)

John A. Bogdanski, *Internet Sales Bolster Market-Based Valuation*, 44 EST. PLAN. 42 (2017)

John A. Bogdanski, *Nonqualified Preferred Stock and the Participation Paradox*, 44 CORP. TAX. 51 (2017)

John A. Bogdanski, *Valuation Penalties and Collections of Assets*, 44 EST. PLAN. 40 (2017)

John A. Bogdanski, *The STARS (Cases) are Back in Alignment*, 44 CORP. TAX. 29 (2017)

John A. Bogdanski, *Proposed Valuation Regulations: Aggressive, Unclear, Questionable*, 43 EST. PLAN. 31 (2016)

John A. Bogdanski, *Darn that "Deem": Proposed Rules on Constructive Stock Distributions*, 43 CORP. TAX. 45 (2016)

John A. Bogdanski, *Basis Consistency and Value Reporting Are Set to Kick In*, 43 EST. PLAN. 42 (2016)

John A. Bogdanski, *"Net, Net Gifts" and the Enigmatic Section 7520*, 43 EST. PLAN. 38 (2016)

John A. Bogdanski, *Judicial Disarray on Insurance Company Stock*, 43 CORP. TAX. 18 (2016)

Edward Brunet, *ADR: THE ADVOCATE'S PERSPECTIVE*, Lexis Publishing (Sixth Edition) (2017) (co-authored with Charles Craver and Ellen Deason)

Edward Brunet, *SUMMARY JUDGMENT - FEDERAL LAW AND PRACTICE 2016*, Thomson Reuters (2016) (co-authored with John T. Parry and Martin H. Redish)

Amy Bushaw, *CONTRACTS: CASES, DISCUSSION, AND PROBLEMS*, Wolters Kluwer (Fourth Edition) (2017) (co-authored with Brian A. Blum)

William Y. Chin, *Racial Cumulative Disadvantage: The Cumulative Effects of Racial Bias at Multiple Decision Points in the Criminal Justice System*, 6 WAKE FOREST J. L. & POL'Y. 441 (2016)

Pamela Frasch, *ANIMAL LAW IN A NUTSHELL (Second Edition)*, West Publishing (2016) (co-authored with Kathy Hessler and Sonia S. Waisman)

Pamela Frasch, *Implementing Toxicity Testing in the 21<sup>st</sup> Century: Challenges and Opportunities*, 20 JOURNAL OF TOXICOLOGY AND ENVIRONMENTAL HEALTH 198 (2017) (co-authored with Paul A. Locke, Margit Westphal, Joyce Tischler, Katherine Hessler, Bruce Meyers and Daniel Krewski)

William Funk, *Slip Slidin' Away: The Erosion of APA Adjudication*, 122 PENN STATE L. REV. 141 (2017)

William Funk, *Final Agency Action After Hawkes*, 11 N.Y.U. J. OF LAW AND LIBERTY 285 (2017)

William Funk, *Constitutional Law and Separation of Powers* in DEVELOPMENTS IN ADMINISTRATIVE LAW AND REGULATORY PRACTICE 2016, American Bar Association Press (2017)

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William Funk, *Make My Day! Dirty Harry and Final Agency Action*, 46 ENVTL. L. 313 (2016)

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H. Tomás Gómez-Arostegui, RESEARCH HANDBOOK ON THE HISTORY OF COPYRIGHT LAW (Isabella Alexander and H. Tomás Gómez-Arostegui, eds.), Edward Elgar Publishing Ltd. (2016)

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Katherine M. Hessler, *Animal Law in a Changing (and Challenging) Political Climate: One Professor's Musings After 100 Days of the Trump Administration*, 23 ANIMAL L. 209 (2017)

Katherine M. Hessler, ANIMAL LAW IN A NUTSHELL (Second Edition), West Publishing (2016) (co-authored with Pamela Frasch and Sonia S. Waisman)

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authored with Paul A. Locke, Margit Westphal, Joyce Tischler, Pamela Frasch, Bruce Meyers and Daniel Krewski)

Craig N. Johnston, *Normal Farming and Adjacency: A Last Minute Gift for the Farm Bureau?*, 46 ENVTL. L. 395 (2016) (co-authored with Gerald Torres)

Craig N. Johnston, CONCISE HORNBOOK SERIES: PRINCIPLES OF ENVIRONMENTAL LAW, West Academic Publishing (co-authored with Melissa Powers) (2016)

Aliza Kaplan, *Overturing Apodaca v. Oregon Should Be Easy: Non-Unanimous Jury Verdicts in Criminal Cases Undermines the Credibility of the Justice System*, 95 OR. L. REV. 1 (2017) (co-authored with Amy Saack)

Robert H. Klonoff, *Class Actions Part II: A Respite from the Decline*, 92 N.Y.U. L. REV. 971 (2017)

Robert H. Klonoff, INTRODUCTION TO THE STUDY OF U.S. LAW, West Publishing (2016)

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Robert H. Klonoff, FEDERAL APPELLATE PRACTICE AND PROCEDURE IN A NUTSHELL, Thomson West (Second Edition) (2017) (co-authored with Gregory Castanias)

Lydia Pallas Loren, INTELLECTUAL PROPERTY LAW: CASES & MATERIALS, Semaphore Press (Fifth Edition) (2017) (co-authored with Joseph Miller)

Susan F. Mandiberg, *Mental State in COMPLIANCE AND ENFORCEMENT OF ENVIRONMENTAL LAW*, (LeRoy C. Paddock, David L. Markell, and Nicholas S. Bryner, eds.), Edward Elgar Publishing (2017)

James M. Oleske, Jr., *A Regrettable Invitation to "Constitutional Resistance," Renewed Confusion Over Religious Exemptions, and the Future of Free Exercise*, 20 LEWIS & CLARK LAW REV. 1317 (2017)

James M. Oleske, Jr., *Grand Theory or Discrete Proposal? Religious Accommodations and Health Related Harms*, 73 WASH. & LEE L. REV. (ONLINE) 387 (2016)

Samir Parikh, *Failing Cities and the Red Queen Phenomenon*, 58 B. C. L. REV. 599 (2017) (co-authored with Zhaochen He)

John A. Parry, *States of Torture: Debating the Future of Coercive Investigations*, 84 TENN. L. REV. 639 (2017)

John T. Parry, CASES AND PROBLEMS IN CIVIL RIGHTS LITIGATION: STATE, FEDERAL AND INTERNATIONAL PERSPECTIVES, Semaphore Press (2016)

John T. Parry, SUMMARY JUDGMENT - FEDERAL LAW AND PRACTICE 2016, Thomson Reuters (2016) (co-authored with Edward Brunet and Martin H. Redish)

Melissa Powers, CONCISE HORNBOOK SERIES: PRINCIPLES OF ENVIRONMENTAL LAW, West Academic Publishing (co-authored with Craig N. Johnston) (2016)

Melissa Powers, *Quick Fixes or Real Remedies? The Benefits and Limitations of Climate and Energy Fast Policy*, 8 SAN DIEGO J. CLIMATE & ENERGY L. 67 (2017) (co-authored with Edward Jewell and Joni Sliger)

Elaine E. Sutherland, IMPLEMENTING ARTICLE 3 OF THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD: BEST INTERESTS, WELFARE AND WELL-BEING, (co-edited with Lesley-Anne Barnes Macfarlane) Cambridge University Press (2016)

Elaine E. Sutherland, *Introduction* in IMPLEMENTING ARTICLE 3 OF THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD: BEST INTERESTS, WELFARE AND WELL-BEING, (Elaine E. Sutherland and Lesley-Anne Barnes Macfarlane, eds.) Cambridge University Press (2016) (co-authored with Lesley-Anne Barnes Macfarlane)

Elaine E. Sutherland, *Article 3 of the United Nations Convention on the Rights of the Child: The Challenges of Vagueness and Priorities* in IMPLEMENTING ARTICLE 3 OF THE UNITED NATIONS CONVENTION ON THE RIGHTS OF THE CHILD: BEST INTERESTS, WELFARE AND WELL-BEING, (Elaine E. Sutherland and Lesley-Anne Barnes Macfarlane, eds.) Cambridge University Press (2016)

Elaine E. Sutherland, *Beyond the named person service*, J. LAW SOCIETY OF SCOTLAND (ONLINE) (2016)

Elaine E. Sutherland, *Raising the Minimum Age of Criminal Responsibility in Scotland: Law Reform at Last?*, 67(3) NORTHERN IRELAND L. Q. 387 (2016)

Ozan Varol, THE DEMOCRATIC COUP D'ÉTAT, Oxford University Press (2017)

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Ozan Varol, *Remedying Constitutional Stickiness*, 37 NAT'L J. CONST. L. 119 (2017)

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Tung Yin, *Justice Scalia as Neither Friend Nor Foe of Criminal Defendants*, 50 AKRON L. REV. 269 (2017)

#### **Forthcoming:**

Michael C. Blumm, *The Trump Revolution in Public Land Law: Redefining "the Public" in Public Land Law*, 48 ENVTL. L. (forthcoming 2018) (co-authored by Olivier Jamin)

Michael C. Blumm, *The Columbia River Basin* in WATERS AND WATER RIGHTS, VOLUME 2, Lexis-Nexis (Third Edition) (forthcoming 2017)

Michael C. Blumm, *The Nation's First Forester-in-Chief: The Overlooked Role of FDR and the Environment*, 33 J. LAND USE & ENVTL. L. (forthcoming 2017)

John A. Bogdanski, *From Russia, with 'Boot': Tseytin*, 45 CORP. TAX. (forthcoming 2018)

William Y. Chin, *War and White Supremacists: How Use of Military in War Overseas Empowers White Supremacists At Home*, S. J. POL'Y & JUSTICE (forthcoming 2017)

George K. Foster, *Community Participation in Development*, VAND. J. TRANSNAT'L L. (forthcoming 2017)

Pamela Frascch, *Gaps in U.S. Animal Welfare Laws for Lab Animals* in INSTITUTE FOR LABORATORY ANIMAL RESEARCH JOURNAL (Dr. Paul Locke, ed.) (forthcoming 2017)

Pamela Frascch, *Implementing Toxicity Testing in the 21<sup>st</sup> Century: Challenges and Opportunities*, JOURNAL OF TOXICOLOGY AND ENVIRONMENTAL HEALTH, PART B (forthcoming 2017) (co-authored with Paul A. Locke, Margit Westphal, Joyce Tischler, Katherine Hessler, Bruce Meyers and Daniel Krewski)

H. Tomás Gómez-Arostegui, *Stationers v Seymour* (1677) in LANDMARK CASES IN INTELLECTUAL PROPERTY LAW (Jose Bellido, ed.), Hart Publishing (forthcoming 2017)

Katherine M. Hessler, ANIMAL LAW – NEW PERSPECTIVES ON TEACHING TRADITIONAL LAW, Carolina Academic Press (forthcoming 2017) (co-authored with Joyce Tischler, Pamela Hart, and Sonia Waisman)

Katherine M. Hessler, *Animals in Testing: Concerns and Consequences* in ANIMAL LAW AND SCIENTIFIC RESEARCH: ETHICS AND LEGAL ASPECTS OF ANIMAL EXPERIMENTATION IN BRAZIL AND EUA (Heron Gordilho, ed.) (forthcoming 2017)

Katherine M. Hessler, *Cruelty to Human and Non-Human Animals in the Wild Caught Fishing Industry*, SUSTAINABLE DEV. L. & POL'Y (forthcoming 2018) (co-authored with Kelly Levenda & Rebecca Jenkins)

Jennifer J. Johnson, *LLC Interests as Securities under State and Federal Law* in RESEARCH HANDBOOK ON PARTNERSHIPS, LLCs AND ALTERNATIVE FORMS OF BUSINESS ORGANIZATIONS (Robert W. Hillman and Mark J. Lowenstein, eds.), The London Press of Edward Elgar Publishing Ltd. (forthcoming 2017)

Aliza Kaplan, *Contemporary Perspectives on Wrongful Conviction: An Introduction to the 2016 Innocence Network Conference, San Antonio, Texas*, 45 HOFSTRA L. REV. (forthcoming 2017) (co-authored with Gwen Jordan, Valena Beety, and Keith Findley)

Robert H. Klonoff, *Application of the New Discovery Rules in Class Actions: Much Ado About Nothing*, VANDERBILT L. REV. (forthcoming 2018)

Robert H. Klonoff, *Class Actions in the U.S. and Israel: A Comparative Approach*, 19 THEORETICAL INQUIRIES IN THE LAW (forthcoming 2018) (co-authored with Alon Klement)

Lydia Pallas Loren, *Fixation as Notice in Copyright Law*, 96 BOSTON U. L. REV. (forthcoming 2017)

Erica J. Lyman, *Achieving Complementarity and Coherence Among UNFCCC Financial Institutions*, KANGWON ENVTL. L. REV. (forthcoming 2017)

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Sandy Patrick, A LAWYER WRITES, Carolina Academic Press (Third Edition) (forthcoming 2018) (co-authored with Christine Nero Coughlin and Joan Rocklin)

Sandy Patrick, ACADEMIC LEGAL WRITING: TRADITIONAL AND EMERGING FORMS, Carolina Academic Press (forthcoming 2018)

Melissa Powers, *Is That All There Is? The Surprising Value of Unenforceable Local Climate Action Plans* in RETHINKING SUSTAINABLE DEVELOPMENT TO MEET THE CLIMATE CHANGE CHALLENGE (Jessica Owley & Keith Hirokawa, eds.), Environmental Law Reporter (forthcoming 2017)

Melissa Powers, *Lessons from U.S. Biofuels Policy: The Renewable Fuels Standard's Rocky Ride* in THE LAW AND POLICY OF BIOFUELS (Yves Le Bouthillier, Annette Cowie, Paul Martin & Heather McLeod-Kilmurray eds.) (forthcoming 2017)

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