



UF

UNIVERSITY *of*
FLORIDA

LEVIN COLLEGE OF LAW

Faculty Scholarly Impact

2017-2018



UF UNIVERSITY of
FLORIDA
Levin College of Law

Faculty Scholarly Impact **2017-2018**

Our faculty produce innovative and rigorous scholarship that explores a wide range of subjects utilizing diverse methodologies. Their research, a central mission of the University of Florida Levin College of Law, makes substantial contributions to compelling legal, policy, and theoretical debates. We are excited to share our recent and forthcoming works with you. (This list reflects published and forthcoming works as of September 1, 2018).

UNIVERSITY OF FLORIDA LEVIN COLLEGE OF LAW

Faculty Scholarly Impact



Laura A. Rosenbury: Dean; Levin, Mabie & Levin Professor of Law

Anne C. Dailey & Laura A. Rosenbury, *The New Law of the Child*, 127 YALE LAW JOURNAL 1448 (2018).

This Article sets forth a new paradigm for describing, understanding, and shaping children’s relationship to law. The existing legal regime, which we term the “authorities framework,” focuses too narrowly on state and parental control over children, reducing children’s interests to those of dependency and the attainment of autonomy. In place of this limited focus, we envision a “new law of the child” that promotes a broader range of children’s present and future interests, including children’s interests in parental relationships and nonparental relationships with children and other adults; exposure to new ideas; expressions of identity; personal integrity and privacy; and participation in civic life. Once articulated, these broader interests lay the foundation for a radical reconceptualization of the field of children and law. We propose a new tripartite framework of relationships, responsibilities, and rights that aims to transform how law treats children and their interactions with others. The framework addresses children’s needs for state and parental control in many instances while also moving beyond those concerns to foster children’s interests in the here and now.

Cynthia Bowman, Laura A. Rosenbury et al., *FEMINIST JURISPRUDENCE: CASES AND MATERIALS* (West, 5th ed. 2017).

Laura A. Rosenbury, *Postmodern Feminist Legal Theory*, in *FEMINIST JURISPRUDENCE* (West 2017).



Darren L. Hutchinson: Stephen C. O’Connell Chair;
Associate Dean for Faculty Development

Darren L. Hutchinson, *Who Locked Us Up? Examining the Social Meaning of Black Punitiveness*, 127 YALE LAW JOURNAL 2388 (2018).

Indeed, social psychology studies demonstrate that blacks hold some of the same implicit biases regarding blacks that scholars have observed among whites. For example, a leading shooter bias study found that, like their white counterparts, black participants “shot” armed blacks more quickly than armed whites and shot unarmed blacks more often than unarmed whites. Similarly, a 1980 study—conducted when the surge in U.S. incarceration was relatively embryonic—found that both black and white participants were more likely to view blacks as more violent or aggressive than whites. Other research shows that blacks exhibit out-group preferences in noncriminal contexts by implicitly associating whiteness with greater intellectual capacity. If this research accurately captures the existence of implicit racial bias among significant numbers of blacks, then black support for tough criminal justice policies could stem, at least in part, from exposure to antiblack stigma.

Darren L. Hutchinson, *Undignified: The Supreme Court, Racial Justice, and Dignity Claims*, 69 *FLORIDA LAW REVIEW* 1 (2017).



**Mary Jane Angelo: Sam T. Dell Term Professor;
Director, Environmental and Land Use Law Program**

Mary Jane Angelo, *U.S. Pesticide Law*, in CHEMICALS AND THE LAW (Edward Elgar forthcoming 2018).

Mary Jane Angelo & Anel Du Pleissis eds., RESEARCH HANDBOOK ON CLIMATE CHANGE AND AGRICULTURAL LAW (Edward Elgar 2017).

Mary Jane Angelo, *Untangling the Climate-Food Web: Achieving Food Security and Agricultural Climate-Resilience*, in RESEARCH HANDBOOK ON CLIMATE CHANGE AND AGRICULTURAL LAW 1 (Edward Elgar 2017).

Mary Jane Angelo, *Food Security, Industrialized Agriculture, and a Changing Global Climate: Perspectives on the U.S. and Cuba*, 29 FLORIDA JOURNAL OF INTERNATIONAL LAW 133 (2017).



**Thomas T. Ankersen: Legal Skills Professor;
Director, Conservation Clinic**

Nicole C. Kibert & Thomas T. Ankersen, *Applying Clinical Legal Education to Community Smart Growth: The University of Florida Conservation Clinic*, in PARTNERSHIPS FOR SMART GROWTH: UNIVERSITY – COMMUNITY COLLABORATION FOR BETTER PUBLIC PLACES 64 (Taylor & Francis 2017).



Stephanie Bornstein: Associate Professor of Law

Stephanie Bornstein, *Reckless Discrimination*, 105 CALIFORNIA LAW REVIEW 1055 (2017).

If there are known, easily adopted ways to reduce bias in employment decisions, should an employer be held liable for discriminatory results when it fails to adopt such measures? Given the vast amount we now know about implicit bias and the ways to reduce it, to what extent is an employer who knowingly fails to do so engaging in intentional discrimination? This Article theorizes a ‘recklessness’ model of discrimination under Title VII, arguing for liability where an employer acts with reckless disregard for the consequences of implicit bias and stereotyping in employment decisions.

Stephanie Bornstein, *Antidiscriminatory Algorithms*, 70 ALABAMA LAW REVIEW (forthcoming 2018).

Stephanie Bornstein, *The Statutory Public Interest in Closing the Pay Gap*, 10 ALABAMA CIVIL RIGHTS & CIVIL LIBERTIES LAW REVIEW (forthcoming 2018).

Stephanie Bornstein, *Equal Work*, 77 MARYLAND LAW REVIEW 581 (2018).



Yariv Brauner: Hugh G. Culverhouse Eminent Scholar Chair in Federal Taxation

Yariv Brauner, *Why Examples? Towards More Behaviorally-Intelligent Regulation*, 37 VIRGINIA TAX REVIEW 243 (2018).

The first original contribution of this article is the exposition and classification of the advantages and deficiencies in the current use of examples in tax regulations. This article is the first to question the rationale behind the ubiquitous use of examples in tax regulations. The article uses data collected by original surveys of expert tax professionals and government employees involved in drafting tax regulations. The second original contribution of this article is the explanation of the appeal of these examples among tax experts, and the potential hazards of the examples despite this apparent appeal. This analysis uses insights from behavioral science, and particularly from the study of cognitive biases, to explain, for example, how anchoring via an example could shift the focus of a regulatory rule and alter the boundaries of the law in inappropriate or unfair ways. Finally, relying on this analysis, the article proposes—the third original contribution—a better-informed approach to the writing of examples in tax regulations.

Yariv Brauner, *Corporations Should Not Be Taxpayers, Especially Post-BEPS*, 33 AUSTRALIAN TAX FORUM (forthcoming 2018).

Yariv Brauner & Shay Menuchin, *Improving Tax Compliance in a Globalized World: The United States Report*, in IMPROVING TAX COMPLIANCE IN A GLOBALIZED WORLD (Linde forthcoming 2018).

Yariv Brauner & Pasquale Pistone, *The Future of the Trans-Atlantic Cooperation in Tax Matters*, 22 FLORIDA TAX REVIEW (forthcoming 2018).

Yariv Brauner, *McBEPS: The MLI – The First Multilateral Tax Treaty That Has Never Been*, 46 INTERTAX 6 (2018).

Yariv Brauner, *Tax Treaty Disputes in the United States*, in 1 A GLOBAL ANALYSIS OF TAX TREATY DISPUTES 17 (Cambridge University Press 2017).

Pasquale Pistone & Yariv Brauner, *The European Union and the United States: The Good Old Tax “Frenemies” in the Shadows of Reforms*, 71 BULLETIN FOR INTERNATIONAL TAXATION 61 (2017).

Yariv Brauner, *Assessing BEPS: Origins, Standards, and Responses – The United States Report for the 2017 Annual IFA Congress, Rio de Janeiro, Brazil*, 102A CAHIERS DE DROIT FISCAL INTERNATIONAL 849 (2017).

Yariv Brauner, *BEPS, Sovereignty, and the Future of the International Tax Regime*, in TAX SOVEREIGNTY IN THE BEPS ERA 73 (Kluwer Law International 2017).

Yariv Brauner, *United States Report*, in TAX TREATIES AND BIT'S 531 (International Bureau of Fiscal Documentation 2017).



Karen C. Burke: Richard B. Stephens Eminent Scholar

Karen C. Burke, *Exploiting the Medicare Tax Loophole*, 21 FLORIDA TAX REVIEW 570 (2018).

Karen C. Burke, FEDERAL INCOME TAXATION OF PARTNERS AND PARTNERSHIPS IN A NUTSHELL (West, 5th ed. 2017).

George K. Yin & Karen C. Burke, PARTNERSHIP TAXATION (Aspen Law & Business, 3d ed. 2017).

Karen C. Burke, *Hot Asset Exchanges: Integrating Sections 704(c), 734(b), and 751(b)*, 70 THE TAX LAWYER 711 (2017).



**Jonathan R. Cohen: Professor of Law;
Associate Director, Institute for Dispute Resolution**

Jonathan R. Cohen, *Two Directions toward Ethical Peoplehood*, CENTRAL CONFERENCE OF AMERICAN RABBIS JOURNAL: REFORM JEWISH QUARTERLY 65 (Winter 2018).

Jonathan R. Cohen, *Lawyers Serving Gods, Visible and Invisible*, 53 GONZAGA LAW REVIEW (forthcoming 2018).



Stuart Cohn: Emeritus Professor of Law

Stuart Cohn & Miao Yinzhi, *The Dragon and the Eagle: Reforming China's Securities IPO Laws in the U.S. Model: Pros & Cons*, 17 WASHINGTON UNIVERSITY GLOBAL STUDIES LAW REVIEW 327 (2018).

Stuart Cohn, SECURITIES COUNSELING FOR SMALL & EMERGING COMPANIES (Thomson Reuters 2018).

Stuart Cohn & Stuart Ames, FLORIDA BUSINESS LAWS ANNOTATED (Thomson Reuters 2018).



Charles Collier: Professor of Law

Charles Collier, *The Armed Society and Its Friends*, 70 HASTINGS LAW JOURNAL (forthcoming 2018).



Deborah Cupples: Master Legal Skills Professor

Deborah Cupples, *Civics Is about You*, 15 THE PROFESSIONAL (forthcoming 2018).

Deborah Cupples, *Professionalism Requires Good Writing and Knowledge of Grammar*, 14 THE PROFESSIONAL 14 (2018).

Deborah Cupples, *IT IS ABOUT YOU: HOW AMERICAN GOVERNMENT WORKS AND HOW TO HELP FIX IT* (Delfinium 2017).



**Shamika D. Dalton: Professor of Legal Research;
Interim Associate Director, Legal Information Center**

Shamika D. Dalton, *Incorporating Race into Your Legal Research Class*, 109 LAW LIBRARY JOURNAL 703 (2017).

Shamika D. Dalton et al. eds., *CELEBRATING DIVERSITY: A LEGACY OF MINORITY LEADERSHIP IN THE AMERICAN ASSOCIATION OF LAW LIBRARIES* (William S. Hein & Co., 2d ed. 2018).



Nancy E. Dowd: David H. Levin Chair in Family Law

Nancy E. Dowd, REIMAGINING EQUALITY: A NEW DEAL FOR CHILDREN OF COLOR (New York University Press 2018).

Drawing on interdisciplinary research, the book demonstrates that black boys encounter challenges and barriers that funnel them toward failure rather than developmental success. Their example exposes a broader reality of hierarchies among children, linked to government policies, practices, structures, and institutions. Dowd argues for a new legal model of developmental equality, grounded in the real challenges that children face on the basis of race, gender, and class. Concluding with a “New Deal” for all children, Reimagining Equality provides a comprehensive set of policies that enables our political and legal systems to dismantle what harms and discriminates children, and maximize their development.

Nancy E. Dowd, *A Time for Bold Visions for Children*, 56 FAMILY COURT REVIEW 346 (2018).

Nancy E. Dowd, *Straight Out of Compton: Developmental Equality and a Critique of the Compton School Litigation*, 45 CAPITAL UNIVERSITY LAW REVIEW 199 (2017).

Nancy E. Dowd, *John Moore Jr.: Moore v. City of East Cleveland and Children’s Constitutional Arguments*, 85 FORDHAM LAW REVIEW 2603 (2017).



Mark Fenster: Cone, Wagner, Nugent, Hazouri & Roth Tort Professor

Mark Fenster, THE TRANSPARENCY FIX: SECRETS, LEAKS, AND UNCONTROLLABLE GOVERNMENT INFORMATION (Stanford University Press 2017).

The Transparency Fix argues for a reformation in our assumptions about secrecy and transparency. Using a variety of real-life examples to examine how government information actually flows, Mark Fenster describes how the legal regime’s tenuous control over state information belies both the promise and peril of transparency. He challenges us to confront the implausibility of controlling government information and shows us how the contemporary obsession surrounding transparency and secrecy cannot radically change a state that is defined by so much more than information.

Mark Fenster, *FOIA as an Administrative Law*, in TROUBLING TRANSPARENCY: THE HISTORY AND FUTURE OF FREEDOM OF INFORMATION (Columbia University Press forthcoming 2018).

Mark Fenster, *The Dramas of Criminal Law: Thurman Arnold’s Post-Realist Critique of Law Enforcement*, 53 TULSA LAW REVIEW 497 (2018).

Mark Fenster, *The Elusive Ethics of Leaking*, 18 GEORGETOWN JOURNAL OF INTERNATIONAL AFFAIRS 112 (2017).

Mark Fenster, *Transparency in Trump’s America*, 30 GOVERNANCE 173 (2017).



Joan Flocks: Director, Social Policy Division, Center for Governmental Responsibility

Jacqueline Mix, Lisa Elon, Valerie Vi Thien Mac, & Joan Flocks, *Hydration Status, Kidney Function and Kidney Injury in Florida Agricultural Workers*, 60 *JOURNAL OF OCCUPATIONAL & ENVIRONMENTAL MEDICINE* 253 (2018).

Joan Flocks et al., *Lessons Learned from Data Collection as Health Screening in Underserved Farmworker Communities*, 12 *PROGRESS IN COMMUNITY HEALTH PARTNERSHIPS: RESEARCH, EDUCATION, AND ACTION* 93 (2018).

Jennifer Runkle, Joan Flocks et al., *A Systematic Review of Mancozeb as a Reproductive and Developmental Hazard*, 99 *ENVIRONMENT INTERNATIONAL* 29 (2017).

Valerie Vi Thien Mac, Jose Antonio Tovar-Aguilar, Joan Flocks et al., *Heat Exposure in Central Florida Fernery Workers: Results of a Feasibility Study*, 22 *JOURNAL OF AGROMEDICINE* 89 (2017).

Abby D. Mutic, Jacqueline M. Mix, Lisa Elon, Nathan J. Mutic, Jeannie Economos, Joan Flocks et al., *Classification of Heat-Related Illness Symptoms Among Florida Farmworkers*, 50 *JOURNAL OF NURSING SCHOLARSHIP* 74 (2018).

Joan Flocks et al., *The Case for Trauma-Informed, Gender-Specific Prevention/Early Intervention Programming in Reducing Female Juvenile Delinquency in Florida*, 12 *NORTHWESTERN JOURNAL OF LAW & SOCIAL POLICY* 1 (2017).

Vicki Hertzberg, Valerie Mac, Lisa Elon, Nathan Mutic, Abby Mutic, Katherine Peterman, J. Antonio Tovar-Aguilar, Eugenia Economos, Joan Flocks et al., *Novel Analytic Methods Needed for Real-Time Continuous Core Body Temperature Data*, 39 *WESTERN JOURNAL OF NURSING RESEARCH* 95 (2017).



Alyson C. Flournoy: Alumni Research Scholar

Alyson C. Flournoy, *Beach-Law Clean-Up: How Sea-Level Rise Has Eroded the Ambulatory Boundaries Legal Framework*, 42 *VERMONT LAW REVIEW* 89 (2017).



Claire M. Germain: Emeritus Professor of Law

Claire M. Germain, *Lay Participation in the Criminal Jury: France and Belgium*, RESEARCH COMMITTEE ON SOCIOLOGY OF LAW NEWSLETTER 7 (Winter 2017).



Jeffrey L. Harrison: Huber C. Hurst Eminent Scholar Chair in Law

Jeffrey L. Harrison, *Is there Too Much Legal "Scholarship", in FATE OF SCHOLARSHIP IN AMERICAN LAW SCHOOLS* (Cambridge University Press forthcoming 2018).

Jeffrey L. Harrison, *The Economics of Copyright Law and Problems with its Implementation, in THE OXFORD RESEARCH ENCYCLOPEDIA OF ECONOMICS AND FINANCE* (forthcoming 2018).

Jeffrey L. Harrison, *What Did They Know and When Did They Know It?: Pretesting as a Means Setting a Baseline for Assessing Learning Outcomes*, 67 JOURNAL OF LEGAL EDUCATION (forthcoming 2018).

Jeffrey L. Harrison, *Spite: Legal and Social Implications*, 22 LEWIS & CLARK LAW REVIEW (forthcoming 2018).

Jeffrey L. Harrison, *Fingerprints: An Empirical and Impressionistic Examination of the Impact of Richard Posner on Contract Law*, 49 UNIVERSITY OF THE PACIFIC LAW REVIEW (forthcoming 2018).

Jeffrey L. Harrison et al., *The Best and Worst of Contracts Decisions: An Anthology*, 45 FLORIDA STATE UNIVERSITY LAW REVIEW (forthcoming 2018).

George Dawson & Jeffrey L. Harrison, *THE CONVENTION ON CONTRACTS FOR THE INTERNATIONAL SALE OF GOODS: CASES, MATERIALS, AND PROBLEMS* (Carolina Academic Press 2017).

Jeffrey L. Harrison & Amy Mashburn, *Moonlighting Sonata: Conflicts, Disclosure, and the Scholar/Consultant*, 2 UNIVERSITY OF BOLOGNA LAW REVIEW 1 (2017).



David Hasen: Professor of Law

**David Hasen, *Taxation and Innovation – A Sectorial Approach*, 2017
UNIVERSITY OF ILLINOIS LAW REVIEW 1043.**

The paper argues that special tax rules designed to promote innovation will generally be ineffective, because they do not address the market failure that characterizes innovative activity generally. The market failure is a form of positive externality that results in chronically low levels of innovation. A better approach would be to correct defects of existing tax rules that tend to discourage innovation.

David Hasen, *How Should Gifts Be Treated Under the Federal Income Tax*, 2018 MICHIGAN STATE LAW REVIEW 81.

David Hasen, *Accretion-Based Progressive Wealth Taxation*, 20 FLORIDA TAX REVIEW 277 (2017).

David Hasen, *A Partnership Mark-to-Market Tax Election*, 71 THE TAX LAWYER 93 (2017).



Berta E. Hernández-Truyol: Levin, Mabie & Levin Professor

Berta E. Hernández-Truyol, *Hope, Dignity, and the Limits of Democracy*, 10 NORTHEASTERN UNIVERSITY LAW JOURNAL (forthcoming 2018).

Berta E. Hernández-Truyol, *The Culture of Gender/The Gender of Culture: Cuban Women, Culture, and Change – The Island and the Diaspora*, 29 FLORIDA JOURNAL OF INTERNATIONAL LAW 181 (2017).

Berta E. Hernández-Truyol, *Glocalizing Women’s Health and Safety: Migration, Work and Labor*, 15 SANTA CLARA JOURNAL OF INTERNATIONAL LAW 48 (2017).



**Mindy Herzfeld: Professor of Tax Practice;
Director, LL.M. in International Tax Program**

Mindy Herzfeld, *The Case against BEPS: Lessons for Tax Coordination*, 21 FLORIDA TAX REVIEW 1 (2017).

Mindy Herzfeld, *Parity for Corporations and Passthroughs Through Integration*, 86 TAX NOTES INTERNATIONAL 378 (2017).

Mindy Herzfeld, *Economics – The Real Appeal of the Border Adjustment Tax*, 85 TAX NOTES INTERNATIONAL 954 (2017).



Michelle Jacobs; Professor of Law;
Assistant Director, Criminal Justice Center

Michelle Jacobs, *The Violent State: Black Women's Invisible Struggle against Police Violence*, 24 WILLIAM & MARY JOURNAL OF WOMEN & THE LAW 39 (2017).



E. Lea Johnston: University Term Professor;
Assistant Director, Criminal Justice Center

E. Lea Johnston, *Retributive Justifications for Jail Diversion of Individuals with Mental Disorder*, 35 BEHAVIORAL SCIENCES & THE LAW 396 (2017).

In response to the crippling cost of caring for inmates with serious mental illnesses, jurisdictions across the United States have launched programs to divert mentally ill offenders away from jails and into community treatment. These initiatives include specially trained police forces, specialized probationary services, and mental health courts. This article assesses the three retributive rationales that could justify this diversion—reduced culpability, the avoidance of inhumane punishment, and the achievement of punishment of equal impact with similarly situated offenders—and explores their manifestations in law and practice.

E. Lea Johnston & Conor P. Flynn, *Mental Health Courts and Sentencing Disparities*, 62 VILLANOVA LAW REVIEW 685 (2017).



Shani King: University of Florida Research Foundation Professor;
Director, Center on Children and Families

Shani King, *A Center on Children and Families for the Future*, 147 DAEDALUS (forthcoming 2018).

Shani King, *Who Are We, America? Unaccompanied Minors and the Politics of Courage*, 51 FAMILY LAW QUARTERLY (forthcoming 2018).

Shani King, *Adoption*, in THE ROUTLEDGE INTERNATIONAL FAMILY LAW HANDBOOK (forthcoming 2018).



Christine A. Klein: Chesterfield Smith Professor

Christine A. Klein, *Owning Groundwater: The Example of Mississippi v. Tennessee*, 35 VIRGINIA ENVIRONMENTAL LAW JOURNAL 474 (2017).

First, under a phenomenon this Article dubs “groundwater exceptionalism,” the law often treats groundwater differently than surface water, partly as a relic of slow-developing hydrologic knowledge. Second, the dispute goes to the very heart of property law and the meaning of ownership, as distinguished from rights of use. The lower courts have consistently framed this decade-long dispute as a matter of competing uses, but have also interjected the rhetoric of ownership into their opinions. This conflation of use and ownership has the potential to affect the outcome of this case, as well as distort future litigation involving equitable apportionment, regulatory takings, state water rights law, and other legal doctrines.

Christine A. Klein et al., *NATURAL RESOURCES LAW: A PLACE-BASED BOOK OF PROBLEMS AND CASES* (Aspen, 4th ed. 2018).



Sarah A. Lewis: Professor of Legal Research

Stephen A. Edwards, Joseph Kolikowski & Sarah Ann Lewis, *Municipal Leases, in 2 EQUIPMENT LEASING-LEVERAGED LEASING 18-3* (Practising Law Institute 2017).



**Charlene Luke: Professor of Law;
Associate Dean for Tax Programs**

James R. Repetti, William H. Lyons, & Charlene D. Luke, *PARTNERSHIP INCOME TAXATION (CONCEPTS AND INSIGHTS)* (Foundation Press, 6th ed. forthcoming 2018).

Charlene Luke, *Captivating Deductions*, 46 HOFSTRA LAW REVIEW 855 (2018).

Charlene Luke, *The Relevance Games: Congress’s Choices for Economic Substance Gamemakers*, in 28 *THE CORPORATE TAX PRACTICE SERIES: STRATEGIES FOR ACQUISITIONS, DISPOSITIONS, SPIN-OFFS, JOINT VENTURES, FINANCINGS, REORGANIZATIONS & RESTRUCTURINGS* 432-1 (Practising Law Institute 2017).

Charlene Luke, *Crowdfunding: Federal Income Tax Considerations*, 58 BLOOMBERG BNA TAX MANAGEMENT MEMORANDUM 331 (2017).

Charlene Luke, *Natural Disasters: Tax Help for Individuals*, 58 BLOOMBERG BNA TAX MANAGEMENT MEMORANDUM 463 (2017).



Pedro A. Malavet: Professor of Law

Pedro A. Malavet, *Cuba, Puerto Rico, the Civil Code and the Problem of Transculturation*, 29 *FLORIDA JOURNAL OF INTERNATIONAL LAW* 197 (2017).



Taryn Marks: Professor of Legal Research

Taryn Marks, *Using the Synergy of Millennials' Activism and Librarians' Radicalism to Create Libraries of the Future*, in *MILLENNIAL LEADERSHIP IN LIBRARIES* 69 (William S. Hein 2018).

Taryn Marks & Avery Le, *Increasing Article Findability Online: The Four Cs of Search Engine Optimization*, 109 *LAW LIBRARY JOURNAL* 83 (2017).



Amy Mashburn: Professor of Law

Amy R. Mashburn & Sharon E. Rush, *Fostering Student Authorship*, 33 *TOURO LAW REVIEW* 399 (2017).

Jeffrey L. Harrison & Amy R. Mashburn, *Moonlighting Sonata: Conflicts, Disclosure, and the Scholar/Consultant*, 2 *UNIVERSITY OF BOLOGNA LAW REVIEW* 1 (2017).



Grayson McCouch: Gerald Sohn Professor of Law

Grayson M. P. McCouch, *FEDERAL INCOME TAXATION OF ESTATES, TRUSTS, AND BENEFICIARIES IN A NUTSHELL* (West 2017).



Martin J. McMahon, Jr.: James J. Freeland Eminent Scholar (Emeritus)

Martin J. McMahon, *2018 Erwin N. Griswold Lecture before the American College of Tax Counsel: Tax Policy Elegy*, 71 THE TAX LAWYER (forthcoming 2018).

Daniel L. Simmons, Martin J. McMahon et al., FEDERAL INCOME TAXATION (Foundation Press, 7th ed. 2017).

Daniel L. Simmons, Martin J. McMahon et al., DISCUSSION PROBLEMS FOR FEDERAL INCOME TAXATION (Foundation Press, 7th ed. 2017).



**Jon L. Mills: Dean Emeritus;
Director, Center for Governmental Responsibility**

Jon L. Mills & Kelsey Harclerode, *Privacy, Mass Intrusion and the Modern Data Breach*, 69 FLORIDA LAW REVIEW 771 (2017).

Jon L. Mills, *The Meaning of "Equal": Evolution of Racial Equality in the United States*, 29 FLORIDA JOURNAL OF INTERNATIONAL LAW 285 (2017).



Peter Molk: Associate Professor of Law

Peter Molk, *Protecting LLC Owners While Preserving LLC Flexibility*, 51 UC DAVIS LAW REVIEW 2129 (2018).

LLC statutes allow owners to restrict or completely waive standard governance protections required of other business forms. This flexible approach can produce more optimal governance terms for sophisticated owners that corporate law's mandatory protections cannot. Yet this same flexibility allows for terms that lead to mispriced capital, reduced investment, and inefficiently allocated capital across LLCs with everyday investors. This Article shows how a model inspired by securities law's accredited investor concept has the most promise to ensure LLCs' continued viability, with favorable liability and tax treatment for everyday investors and the freedom to craft unique governance relationships for sophisticated ones.

Peter Molk, *Playing with Fire? Testing Moral Hazard in Homeowners Insurance Valued Policies*, 2018 UTAH LAW REVIEW 347.

Peter Molk, *Do We Need Specialized Business Forms for Social Enterprise*, in THE CAMBRIDGE HANDBOOK OF SOCIAL ENTERPRISE LAW (forthcoming 2018).

Peter Molk, *How Do LLC Owners Contract Around Default Statutory Protections*, 42 JOURNAL OF CORPORATION LAW 503 (2017).



**Fred F. Murray: Professor of Tax Practice;
Director, Graduate Tax Program**

Fred F. Murray, *Getting Ready for the New Partnership Examination Rules Enacted in the Bipartisan Budget Act of 2015*, in *THE PARTNERSHIP TAX PRACTICE SERIES* (2018 EDITION) 319A-1 (Practising Law Institute 2017).



**Jason P. Nance: University Term Professor;
Associate Dean for Academic Affairs**

Jason P. Nance, *Student Surveillance, Racial Inequalities, and Implicit Racial Bias*, 66 EMORY LAW JOURNAL 765 (2017).

In the wake of high-profile incidents of school violence, school officials have increased their reliance on a host of surveillance measures to maintain order and control in their schools. However, not all students experience the same level of surveillance. This article presents data on school surveillance practices, including an original empirical analysis of restricted data recently released by the U.S. Department of Education after the shootings at Sandy Hook Elementary School, revealing that schools serving primarily students of color are more likely to rely on more intense surveillance measures than other schools. Further, the empirical evidence suggests that these racial disparities may not be justified by legitimate safety concerns. The article then turns to a discussion of the role that implicit racial bias may have in school officials' decisions to rely on intense surveillance methods and proposes legislation and strategies that lawmakers and school officials should adopt to counteract the effect of implicit racial bias on school officials' decisions to implement strict security measures (and other decisions school officials make).

Jason P. Nance, *Implicit Racial Bias and Students' Fourth Amendment Rights*, 94 INDIANA LAW JOURNAL (forthcoming 2018).

Jason P. Nance, *The Need and Justifications for a Stronger Federal Response to Address Education Inequalities*, in *THOUGHTS ON A FEDERAL RIGHT TO EDUCATION* (New York University Press forthcoming 2019).

Jason P. Nance, *The Intersection between Schools and the Criminal Justice System*, in *OXFORD HANDBOOK OF CHILDREN AND THE LAW* (forthcoming 2019).

Jason P. Nance, *School Surveillance Practices*, in *OXFORD HANDBOOK OF U.S. K-12 EDUCATION LAW* (forthcoming 2019).



Lars Noah: Stephen C. O'Connell Chair

Lars Noah, *Giving Personal Injury Attorneys Who Run Misleading Drug Ads a Dose of Their Own Medicine*, 2019 UNIVERSITY OF ILLINOIS LAW REVIEW (forthcoming 2019).

Lars Noah, *Federal Regulatory Responses to the Prescription Opioid Crisis: Too Little, Too Late*, 2019 UTAH LAW REVIEW (forthcoming 2019).

Lars Noah, *Go Sue Yourself! Imagining Intrapersonal Liability for Negligently Self-Inflicted Harms*, 70 FLORIDA LAW REVIEW (forthcoming 2018).

Lars Noah, *Reversal of Fortune: Moving Pharmaceuticals from Over-the-Counter to Prescription Status*, 63 VILLANOVA LAW REVIEW (forthcoming 2018).

Lars Noah, LAW, MEDICINE, AND MEDICAL TECHNOLOGY: CASES & MATERIALS (Foundation Press, 4th ed. 2017).

Lars Noah, *When Constitutional Tailoring Demands the Impossible: Unrealistic Scrutiny of Agencies*, 85 GEORGE WASHINGTON LAW REVIEW 1462 (2017).



William H. Page: Marshall M. Criser Eminent Scholar in Electronic Communications and Administrative Law

William H. Page & John Lopatka, *Parker v. Brown, the Eleventh Amendment, and Anticompetitive State Regulation*, 60 WILLIAM & MARY LAW REVIEW (forthcoming 2019).

William H. Page, *Pleading, Discovering, and Proving A Sherman Act Agreement: Harmonizing Twombly and Matsushita*, 82 ANTITRUST LAW JOURNAL (forthcoming 2018).

Jospeh P. Bauer, William H. Page et al., KINTNER'S FEDERAL ANTITRUST LAW (Anderson 2018).

William H. Page, *The Microsoft Case as a Political Trial, in POLITICAL TRIALS IN THEORY AND HISTORY* 347 (Cambridge University Press 2017).

William H. Page, *Tacit Agreement Under Section 1 of the Sherman Act*, 81 ANTITRUST LAW JOURNAL 593 (2017).



Robert J. Rhee: John H. and Mary Lou Dasburg Professor of Law

Robert J. Rhee, *A Legal Theory of Shareholder Primacy*, 102 MINNESOTA LAW REVIEW 1951 (2018).

Shareholder primacy is one of the most fundamental concepts in corporate law and corporate governance. It is widely embraced in the business, legal, and academic communities. Academic literature invariably describes shareholder primacy as a norm. But whether the concept is law is contested because we still do not have a coherent legal theory. This Article presents a positive legal theory of shareholder primacy. It answers the questions: Is shareholder primacy law? What form of law is it? How does it achieve efficacy? The core prescription to maximize profit cannot be in the form of an enforceable rule, which is the framework of a board's fiduciary duty. Such a form of law would be internally incoherent with the structure of corporate law. However, pervasive judicial acceptance of a principle can legitimize a rule and thus impose a strong internal sense of obligation. This Article, through empirical analysis, shows that shareholder primacy has become a Hartian obligation and a rule of law. The rule does not exist in a single locus duty, but instead, is a filamentary principle that weaves through many other rules of corporate law and the architecture of the corporate and market systems. This Article shows how the obligation, albeit unenforceable in the form of fiduciary duty, is efficacious nonetheless.

Robert J. Rhee, *DEVELOPING PROFESSIONAL SKILLS: BUSINESS ASSOCIATIONS* (West, 2d ed. 2018).

Robert J. Rhee, *Corporate Short-Termism and Intertemporal Choice*, 96 WASHINGTON UNIVERSITY LAW REVIEW (forthcoming 2018).

Jeffrey Bauman, Russell Stevenson, & Robert J. Rhee, *BUSINESS ORGANIZATIONS LAW AND POLICY: MATERIALS AND PROBLEMS* (West, 9th ed. 2017).

Donald Gifford & Robert J. Rhee, *LEGAL NEGOTIATION: THEORY AND PRACTICE* (West, 3d ed. 2017).



**Elizabeth Rowe: Irving Cypen Professorship;
Director, Program in Intellectual Property Law**

Elizabeth A. Rowe, *DTSA Questions and Potential Unintended Consequences*, 64 LOYOLA LAW REVIEW (forthcoming 2018).

Sharon K. Sandeen & Elizabeth A. Rowe, *TRADE SECRET LAW IN A NUTSHELL* (West, 2d ed. 2017).

Elizabeth A. Rowe & Sharon K. Sandeen, *CASES AND MATERIALS ON TRADE SECRET LAW* (West 2017).

Elizabeth A. Rowe, *Unpacking Trade Secret Damages*, 55 HOUSTON LAW REVIEW 155 (2017).

Sharon K. Sandeen & Elizabeth A. Rowe, *Debating Employee Non-Competes and Trade Secrets*, 33 SANTA CLARA HIGH TECHNOLOGY LAW JOURNAL 438 (2017).



Sharon E. Rush: Raymond & Miriam Ehrlich Eminent Scholar Chair

Amy R. Mashburn & Sharon E. Rush, *Fostering Student Authorship*, 33 TOURO LAW REVIEW 399 (2017).



Katheryn Russell-Brown: Chesterfield Smith Professor of Law;
Director, Center for the Study of Race and Race Relations

Katheryn Russell-Brown, *The Academic Swoon over Implicit Racial Bias: Costs, Benefits and Other Considerations*, 15 DU BOIS REVIEW: SOCIAL SCIENCE RESEARCH ON RACE 185 (2018).

This essay examines the emergence of the implicit bias paradigm as a way to address racial bias in justice system outcomes. The first part provides an overview of implicit bias, including how it is defined, how it is measured and how it impacts the justice system. The second part examines the term “implicit bias.” This section examines implicit bias as a social problem and considers whether the label illuminates or obscures the reality of racial bias in the criminal justice system. The discussion considers whether “implicit bias” is viewed as a more appealing approach for dealing with racial bias because it does not assign racial blame. The third part considers the contours of the relationship between implicit bias and explicit bias. My discussion highlights the interconnectedness between the two forms of racial bias. Is the implicit bias approach a signal of racial retrenchment? The final section considers how elementary and secondary education could be used as a proactive strategy for addressing implicit racial bias.

Katheryn Russell-Brown, *Black Criminology in the 21st Century*, in 24 BUILDING A BLACK CRIMINOLOGY: RACE, THEORY, AND CRIME (Rutledge forthcoming 2018).

Katheryn Russell-Brown, *Making Implicit Bias Explicit: Black Men and the Police*, in POLICING THE BLACK MAN: ARREST, PROSECUTION, AND IMPRISONMENT 135 (Pantheon 2017).

Katheryn Russell-Brown, *Critical Black Protectionism, Black Lives Matter and Social Media: Building a Bridge to Social Justice*, 60 HOWARD LAW JOURNAL 367 (2017).



D. Daniel Sokol: University of Florida Research Foundation Professor

D. Daniel Sokol, *Troubled Waters Between US and European Antitrust*, 115 MICHIGAN LAW REVIEW 955 (2017).

Though based on similar principles, US and European antitrust are at times divergent. Whereas economic analysis is central to the American antitrust enterprise, economic effects are used more unevenly in EC case law, particularly with regard to single firm conduct cases. The European approach is less reliant on economic analysis particularly in conduct cases with regard to markets characterized by high tech and innovation and hence lead to high profile expressions of divergence.

D. Daniel Sokol, *Biotech Strategic Alliances in Law and Entrepreneurship*, in CAMBRIDGE HANDBOOK OF LAW AND ENTREPRENEURSHIP (forthcoming 2019).

D. Daniel Sokol, *Antitrust, Industrial Policy, and Economic Populism*, in RECONCILING EFFICIENCY AND EQUITY: A GLOBAL CHALLENGE FOR COMPETITION POLICY? (Cambridge University Press forthcoming 2018).

D. Daniel Sokol, *The Case for Global Best Practices in Antitrust Procedural Fairness*, in ANTITRUST PROCEDURAL FAIRNESS (Oxford University Press forthcoming 2018).

D. Daniel Sokol, *Procedural Fairness in Chinese Antitrust*, in ANTITRUST PROCEDURAL FAIRNESS (Oxford University Press forthcoming 2018).

D. Daniel Sokol & Andrew Guzman eds., ANTITRUST PROCEDURAL FAIRNESS (Oxford University Press forthcoming 2018).

D. Daniel Sokol, *Vertical Mergers and Entrepreneurial Exit*, 70 FLORIDA LAW REVIEW (forthcoming 2018).

D. Daniel Sokol, *Reinvigorating Criminal Antitrust*, 60 WILLIAM & MARY LAW REVIEW (forthcoming 2018).

D. Daniel Sokol, *Do We Need a New Synthesis of Law and STEM? Law and STEM Collaboration in Entrepreneurship*, 112 NORTHWESTERN UNIVERSITY LAW REVIEW ONLINE 163 (2018).

Eric M. Fraser, Barak Orbach & D. Daniel Sokol, *The Chicago Tradition and Judge Ginsburg*, in DOUGLAS H. GINSBURG LIBER AMICORUM: AN ANTITRUST PROFESSOR ON THE BENCH 43 (Concurrences 2018).

D. Daniel Sokol ed., PATENT ASSERTION ENTITIES AND COMPETITION POLICY (Cambridge University Press 2017).

D. Daniel Sokol, *Introduction*, in PATENT ASSERTION ENTITIES AND COMPETITION POLICY 1 (Cambridge University Press 2017).

D. Daniel Sokol, *Patent Privateering: The Rise of Hybrid Patent Assertion Entities*, in PATENT ASSERTION ENTITIES AND COMPETITION POLICY 72 (Cambridge University Press 2017).

Roger Blair & D. Daniel Sokol eds., *THE CAMBRIDGE HANDBOOK OF ANTITRUST, INTELLECTUAL PROPERTY, AND HIGH TECH* (2017).

D. Daniel Sokol & Roisin Comerford, *Does Antitrust Have a Role to Play in Regulating Big Data*, in *THE CAMBRIDGE HANDBOOK OF ANTITRUST, INTELLECTUAL PROPERTY, AND HIGH TECH* 293 (2017).

D. Daniel Sokol & Wentong Zheng, *FRAND (and Industrial Policy) in China*, in *CAMBRIDGE HANDBOOK OF TECHNICAL STANDARDIZATION LAW* 306 (2017).

D. Daniel Sokol, *State Capitalism in Cuba: The Lessons of the Literature on State Owned Enterprises and Market Liberalization*, 29 *FLORIDA JOURNAL OF INTERNATIONAL LAW* 211 (2017).

D. Daniel Sokol & Jingyuan Ma, *Understanding Online Markets and Antitrust Analysis*, 15 *NORTHWESTERN JOURNAL OF TECHNOLOGY AND INTELLECTUAL PROPERTY* 43 (2017).

Pinar Akman & D. Daniel Sokol, *Online RPM and MFN Under Antitrust Law and Economics*, 50 *REVIEW OF INDUSTRIAL ORGANIZATION* 133 (2017).

D. Daniel Sokol & Jan Peter van der Veer, *Competition and Entry: Do Entrants Deserve Special Protection in India and Other Emerging Economies?*, 5 *JOURNAL OF ANTITRUST ENFORCEMENT* 276 (2017).

Amy L. Stein: Professor of Law



Amy L. Stein & Joshua Fershee, *Electric, Hybrid, and Internal Combustion Vehicles*, in *LEGAL PATHWAYS TO DEEP DECARBONIZATION IN THE UNITED STATES* (ELI Press forthcoming 2018).

Amy L. Stein, *A Statutory National Security President*, 70 *FLORIDA LAW REVIEW* (forthcoming 2018)

Amy L. Stein, *Breaking Energy Path Dependencies*, 82 *BROOKLYN LAW REVIEW* 559 (2017).

Amy L. Stein, *Regulating Reliability*, 54 *HOUSTON LAW REVIEW* 1191 (2017).



**Stacey B. Steinberg: Senior Legal Skills Professor;
Associate Director, Center on Children and Families**

Stacey B. Steinberg, *Sharenting: Children’s Privacy in the Age of Social Media*, 66 EMORY LAW JOURNAL 839 (2017).

This Article is the first to offer an in-depth legal analysis of the conflict inherent between a parent’s right to share online and a child’s interest in privacy. It considers whether children have a legal or moral right to control their own digital footprint and discusses the unique and novel conflict at the heart of parental sharing in the digital age. The Article explores potential legal solutions to this issue and offers a set of best practices for parents to consider when sharing about children online. It concludes by providing a child-centered, public-health-based model of reform that protects a child’s interest in privacy while also recognizing a parent’s right to share online.

Stacey B. Steinberg, *Changing Faces: Morphed Child Pornography and the First Amendment*, 67 EMORY LAW JOURNAL (forthcoming 2018).

Stacey B. Steinberg, *#Advocacy: Social Media’s Power to Transform Law*, 105 KENTUCKY LAW JOURNAL 413 (2017).

Bahareh Keith & Stacey B. Steinberg, *Parental Sharing on the Internet: Child Privacy in the Age of Social Media and the Pediatrician’s Role*, 171 JOURNAL OF THE AMERICAN MEDICAL ASSOCIATION PEDIATRICS 413 (2017).



**John Stinneford: University Term Professor;
Assistant Director, Criminal Justice Center**

John Stinneford, *The Original Meaning of “Cruel”*, 105 GEORGETOWN LAW JOURNAL 441 (2017).

This Article solves several important problems plaguing the Supreme Court’s Eighth Amendment jurisprudence. First, it clarifies the Eighth Amendment’s intent requirement. To violate the Cruel and Unusual Punishments Clause, some government official must possess intent to punish but not necessarily intent to punish cruelly. Second, it demonstrates how to determine whether a given punishment is so harsh that it violates the Eighth Amendment. The question is not whether a punishment is unjustly harsh in the abstract but whether it is unjustly harsh in comparison to the traditional punishment practices it has replaced. Third, it shows how to sort between those unintended effects of punishment that may properly be considered part of the punishment and those that may not. If a given punishment significantly heightens the risk of severe, unjustified harm beyond the baseline risk established by longstanding prior practice, it is cruel and unusual. Finally, this Article establishes that the core purpose of the Cruel and Unusual Punishments Clause is to prevent unjust suffering, not the coarsening of public sensibilities.



Christopher Vallandingham: Professor of Legal Research

Christopher Vallandingham, *Territorial Courts, in FLORIDA'S OTHER COURTS: UNCONVENTIONAL JUSTICE IN THE SUNSHINE STATE 43* (University Press of Florida 2018).



Henry T. Wihnyk: Senior Legal Skills Professor

Henry T. Wihnyk, *SPEAKING OUTSIDE THE COURTROOM – PUBLIC SPEAKING FOR LAWYERS TEACHER'S MANUAL* (Carolina Academic Press forthcoming 2018).



Michael Allan Wolf: Richard E. Nelson Chair in Local Government

Michael Allan Wolf, *Right Environmentalism: Repurposing Conservative Constitutionalism*, 50 ARIZONA STATE LAW JOURNAL 651 (2018).

Attorneys representing environmental interests in federal courts, especially the Supreme Court, will be “bringing a knife to a gunfight” should they continue to attack head-on such stalwart principles of conservative jurisprudence as federalism, textualism, and originalism, or to seek the reversal of strong precedents that narrow standing, limit the reach of the Commerce and Necessary and Proper Clauses, and expand the scope of the Takings Clause to include allegedly confiscatory environmental and land use regulations. What is needed during these fraught times is a litigation strategy that goes beyond accommodating, adjusting, or masaging conservative jurisprudence. Because the goal of litigation is to prevail for one’s client in the case before the court, not to shape airtight theories that consistently adhere to ideological ideals, counsel (including authors of amicus briefs) should advance arguments that will most effectively result in victories for the side identified with environmental protection and sustainability.

Daniel R. Mandelker & Michael Allan Wolf, *LAND USE LAW* (Matthew Bender, 6th ed. forthcoming 2018).

Michael Allan Wolf, *Supreme Court Roadblocks to Responsive Coastal Management in the Wake of Lucas*, 53 *REAL PROPERTY, TRUST & ESTATE LAW JOURNAL* (forthcoming 2018).

Michael Allan Wolf ed., *POWELL ON REAL PROPERTY* (Matthew Bender 2018).



Danaya C. Wright: Clarence J. TeSelle Endowed Professor

Danaya C. Wright & Stephanie Emrick, *Tearing Down the Wall: How Transfer-on-Death Real-Estate Deeds Challenge the Inter Vivos/Testamentary Divide*, 78 MARYLAND LAW REVIEW (forthcoming 2019).

Danaya C. Wright & Beth Sterner, *Response to Professor Horton, Mr. James Pressly and Mr. J. Grier Pressly*, 43 AMERICAN COLLEGE OF TRUST AND ESTATE COUNSEL LAW JOURNAL 351 (2018).

Danaya C. Wright & Beth Sterner, *Honoring Probable Intent in Intestacy: An Empirical Assessment of the Default Rules and the Modern Family*, 42 AMERICAN COLLEGE OF TRUST AND ESTATE COUNSEL LAW JOURNAL 341 (2017).



Wentong Zheng: University Term Professor

Wentong Zheng, *Untangling the Market and the State*, 67 EMORY LAW JOURNAL 243 (2017).

The government plays increasingly active and diversified roles in the modern economy. How to draw the boundary between the market and the state has emerged as a contentious issue in various areas of law, including constitutional law, anti-trust, and international trade. This Article surveys and critiques the law's current approaches to the market-versus-state divide, embodied in four tests based on ownership, control, function, and role, respectively. This Article proposes an alternative market-versus-state test based on the nature of the power being exercised in the challenged action. This power-based test not only better distinguishes between the market and the state, but also illuminates why the market-versus-state distinction needs to be made in the first place. Applying this power-based test would bring much needed logic and clarity to many market-versus-state issues in various legal contexts.

Wentong Zheng, *Competition Policy and Collusion*, 18 ANTITRUST SOURCE (forthcoming 2018).

D. Daniel Sokol & Wentong Zheng, *FRAND (and Industrial Policy) in China*, in CAMBRIDGE HANDBOOK OF TECHNICAL STANDARDIZATION LAW 306 (2017).

Wentong Zheng, *Exploring Cuba's New Role in the World Economy: Paths and Perils*, 29 FLORIDA JOURNAL OF INTERNATIONAL LAW 263 (2017).

UF Law is ranked

19

among public law schools.

3.72

MEDIAN GPA

Class of 2021

#33

FOR ACADEMIC
REPUTATION AMONG
ALL LAW SCHOOLS



THE UNIVERSITY OF FLORIDA
#8
AMONG PUBLIC RESEARCH UNIVERSITIES

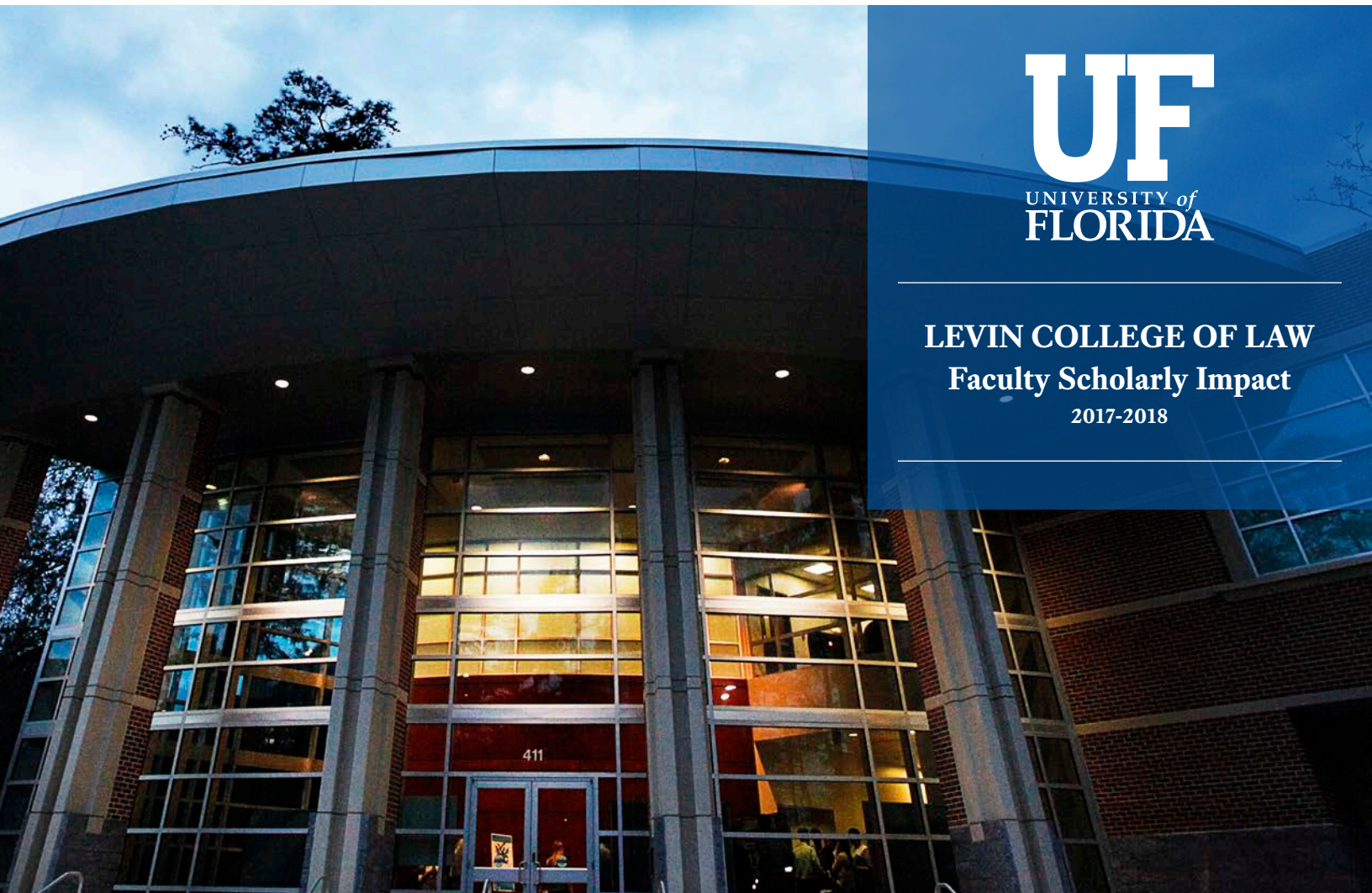
163
MEDIAN LSAT
Class of 2021

#1
TAX PROGRAM
AMONG PUBLIC
LAW SCHOOLS



Levin College of Law
P.O. Box 117625
Gainesville, FL 32611-7625
www.law.ufl.edu

Non-Profit
Organization
U.S. Postage
PAID
Gainesville, FL
Permit No. 94



LEVIN COLLEGE OF LAW
Faculty Scholarly Impact
2017-2018
