



Faculty Publications

Scholarship Published Since July 2018 &
Scholarship To Be Published By June 2020

This report is based on information available as of April 2020

Carolina Law

Where Research and Scholarship Flourish

As we celebrate UNC School of Law School's 175th anniversary, I am struck by the vibrant intellectual community we have built here.

Our dynamic faculty includes experts on a broad range of topics. They publish scholarship that advances the academic conversation in their respective disciplines. Their research also has real-world impact.

Whether it is advising Congress on impeachment, studying the consequences of student debt, investigating the effects of technology in the workplace, documenting the harms of poverty, or exploring how market forces shape the American family, our faculty is engaged in cutting edge research on the most important legal and policy issues of our time. Their scholarship influences judges, prompts legislative and regulatory reform, and shapes public debate about the rule of law and its foundational role in our society.

As one of the best public law schools in the country, Carolina Law will continue to make major legal and policy contributions of the kind documented here. I look forward to sharing more of our faculty's ambitious work in the future.



A handwritten signature of Martin H. Brinkley in black ink.

Martin H. Brinkley '92

Dean and Arch T. Allen

Distinguished Professor of Law



True scholarship consists in
knowing not what things exist,
but what they mean; it is not
memory but judgment.



JAMES RUSSELL LOWELL



Kevin Bennardo

Clinical Associate Professor of Law

ARTICLES AND POLICY PAPERS

Kevin Bennardo & Alexa Z. Chew, *Citation Stickiness*, 20 J. APP. PRAC. & PROCESS 61 (2019).

Kevin Bennardo, *Abandoning Predictions*, 16 LEGAL COMM. & RHETORIC 39 (2019).

Kevin Bennardo & Mark Glover, *The Location of Holographic Wills*, 97 N.C. L. REV. 1625 (2019).

Kevin Bennardo, *The Madness of Insane Delusions*, 60 ARIZ. L. REV. 601 (2018).



Kaci Bishop

Clinical Associate Professor of Law

ARTICLES AND POLICY PAPERS

Kaci Bishop, *Unconventional Actors*, 44 N.C. J. INT'L L. 521 (2019).



John Charles Boger

Wade Edwards Distinguished Professor of Law Emeritus

ARTICLES AND POLICY PAPERS

John Charles Boger, *McCleskey v. Kemp: Field Notes from 1977-1991*, 112 NW. U. L. REV. 1637 (2018).

John Charles Boger, *The Future of the Death Penalty: The Seeds of Time*, 51 TEX. TECH L. REV. 75 (2018).



Lissa Lamkin Broome

Burton Craige Distinguished Professor and Director of the Center for Banking and Finance

ARTICLES AND POLICY PAPERS

Lissa Lamkin Broome, *The Evolution of the Voice and Vote of Student-Athletes in NCAA Division I Governance*, MISS. SPORTS L.J. (forthcoming 2020).

Lissa Lamkin Broome, *Banking on Blockchain*, 21 N.C. J.L. & TECH. 169 (2019).



Patricia L. Bryan

Henry P. Brandis Distinguished Professor of Law

ARTICLES AND POLICY PAPERS

Patricia L. Bryan, *The “Vote Yes! Keep the Rangers!” Campaign: A Referendum on Stadium Funding in Arlington, Texas*, 26 NINE: J. BASEBALL HIST. & CULTURE (forthcoming 2020).



Alexa Z. Chew

Clinical Associate Professor of Law

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ALEXA Z. CHEW & KATIE ROSE GUEST PRYAL, *THE COMPLETE LEGAL WRITER* (2d ed. 2020).

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Alexa Z. Chew, *Stylish Legal Citation*, 71 ARK. L. REV. 823 (2019).

Alexa Z. Chew, *Citation Literacy*, 70 ARK. L. REV. 869 (2018).



Andrew Chin

Paul B. Eaton Professor of Law

BOOKS AND BOOK CHAPTERS

Andrew Chin, *Software Patenting and Section 101's Gatekeeping Function*, in CAMBRIDGE HANDBOOK OF LAW AND ALGORITHMS (Woodrow Barfield ed., forthcoming 2020).

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John M. Conley

William Rand Kenan Jr. Professor of Law

BOOKS AND BOOK CHAPTERS

JOHN M. CONLEY ET AL., *SCIENTIFIC AND EXPERT EVIDENCE* (3d ed. forthcoming 2020).

JOHN M. CONLEY ET AL., *JUST WORDS: LAW, LANGUAGE, AND POWER* (3d ed. 2019).

John M. Conley, *Indicators*, in *INTERNATIONAL ENCYCLOPEDIA OF ANTHROPOLOGY* (2018).

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John M. Conley et al., *Is Real-Time ELSI Realistic?*, 11 *AMER. J. BIOETHICS EMPIRICAL* (print forthcoming 2020), <https://doi.org/10.1080/23294515.2020.1722289>.

John M. Conley, *Introduction: A Lawyer's Guide to CRISPR*, 97 *N.C. L. REV.* 1041 (2019).

John M. Conley et al., *Can Soft Regulation Prevent Financial Crises?: The Dutch Central Bank's Supervision of Behavior and Culture*, 51 *CORNELL INT'L L.J.* 775 (2019).

John M. Conley, *Recent Privacy Law Developments with Major Implications for Medical and Scientific Research*, 19 *N.C. J. L. TECH.* 327 (2018).

John M. Conley, *Justice and Judgment Among the Whomever: An Anthropological Approach to Judging*, 67 *DUKE L.J. ONLINE* 135 (2018).

John M. Conley et al., *Is Enhancement the Price of Prevention in Human Gene Editing?*, 1 *CRISPR J.* 351 (2018).



Michael L. Corrado

Arch T. Allen Distinguished Professor of Law Emeritus

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Michael L. Corrado, *The Takings Doctrine and the Principle of Legality*, in *THE ROUTLEDGE HANDBOOK OF THE PHILOSOPHY AND SCIENCE OF PUNISHMENT* (Farah Focquaert, Elizabeth Shaw & Bruce Waller eds., forthcoming 2020).

Michael L. Corrado, *Doing Without Desert*, in *FREE WILL AND THE LAW: NEW PERSPECTIVES* (Allan McCay & Michael Sevel eds., 2019).

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Michael L. Corrado, *Free Will Fallibilism and the "Two Standpoints" Account of Freedom*, *SYNTHESE* (2019), <https://doi.org/10.1007/s11229-019-02181-1>.

Michael L. Corrado, *Criminal Quarantine and the Burden of Proof*, *PHILOSOPHIA*, September 2018, <https://doi.org/10.1007/s11406-018-0026-2>.



John F. Coyle

Reef C. Ivey II Term Professor of Law and Associate Professor of Law

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John F. Coyle, *A Short History of the Choice-of-Law Clause*, 91 COLO. L. REV. (forthcoming 2020).

John F. Coyle & Joseph Green, *Contract as Swag*, 124 PENN ST. L. REV. (forthcoming 2020).

John F. Coyle, *The Role of the CISG in Canadian Contract Practice*, 39 J.L. & COM. (forthcoming 2020).

John F. Coyle, *Party Autonomy and the Presumption Against Extraterritoriality*, 55 WILLAMETTE L. REV. 559 (2019).

John F. Coyle, *Interpreting Forum Selection Clauses*, 104 IOWA L. REV. 1791 (2019).

John F. Coyle, *The Butterfly Effect in Boilerplate Contract Interpretation*, 82 LAW & CONTEMP. PROBS. i (2019).

John F. Coyle & Christopher Drahozal, *An Empirical Study of Dispute Resolution Clauses in International Supply Contracts*, 52 VAND. J. TRANSNAT'L L. 323 (2019).

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John F. Coyle & W. Mark C. Weidemaier, *Interpreting Contracts Without Context*, 67 AM. U. L. REV. 1673 (2018).



Nicole M. Downing

Clinical Assistant Professor of Law and Head of Reference Services

ARTICLES AND POLICY PAPERS

Nicole M. Downing, *The Five Minute Exercise: A Method for Using Modified Lectures in the Legal Research Classroom*, 38 LEGAL REFERENCE SERVICES Q. 1 (2019).



Maxine Eichner

Graham Kenan Distinguished Professor of Law

BOOKS AND BOOK CHAPTERS

MAXINE EICHNER, *THE FREE-MARKET FAMILY: HOW THE MARKET CRUSHED THE AMERICAN DREAM (AND HOW IT CAN BE RESTORED)* (2020).

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Maxine Eichner, *The Free-Market Family and Children's Caretaking*, 71 FLA. L. REV. F. 45 (2019).



Kate Sablosky Elengold

Assistant Professor of Law

ARTICLES AND POLICY PAPERS

Kate Sablosky Elengold, *The Investment Imperative*, 57 HOUS. L. REV. 1 (2019).

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Barbara A. Fedders

Assistant Professor of Law

ARTICLES AND POLICY PAPERS

Barbara A. Fedders, *The Constant and Expanding Classroom: Surveillance in K-12 Public Schools*, 97 N.C. L. REV. 1673 (2019).

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Deborah R. Gerhardt

Reef C. Ivey II Excellence Fund Term Professor of Law

ARTICLES AND POLICY PAPERS

Deborah R. Gerhardt, *Copyright Publication on the Internet*, 60 IDEA 1 (2020).

Deborah R. Gerhardt & John McClanahan Lee, *Owning Colors*, 40 CARDOZO L. REV. 2483 (2019).

Deborah R. Gerhardt, *A Masterclass in Trademark's Descriptive Fair Use Defense*, 52 AKRON L.J. 739 (2019).

Deborah R. Gerhardt, *A Behavioral Economics View of Judge Posner's Contracts Legacy*, 50 U. PAC. L. REV. 349 (2019).

Deborah R. Gerhardt, *Beware the Trademark Echo Chamber: Why Federal Courts Should Not Defer to USPTO Decisions*, 33 BERKELEY TECH. L.J. 643 (2018).



Michael J. Gerhardt

Burton Craige Distinguished Professor of Jurisprudence

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MICHAEL J. GERHARDT, *THE FEDERAL IMPEACHMENT PROCESS: A CONSTITUTIONAL AND HISTORICAL ANALYSIS* (3d ed. 2019).

Michael J. Gerhardt, "Never Gon' Be President Now," in *THE LAW OF HAMILTON: AN AMERICAN MUSICAL* (Lisa Tucker ed., forthcoming 2020).

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Michael J. Gerhardt, *Reply to Don McGahn*, 61 WM. & MARY L. REV. (forthcoming 2020).

Michael J. Gerhardt, *Introduction to Symposium on Ethics in the Age of Trump*, 98 N.C. L. REV. (forthcoming 2020).

Michael J. Gerhardt, *President Trump's Impeachment: What Happened and What We Learned*, 87 U. CHI. L. REV. (forthcoming 2020).



Thomas Lee Hazen

Cary C. Boshamer Distinguished Professor of Law

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JAMES D. COX & THOMAS LEE HAZEN, *BUSINESS ORGANIZATION LAW* (5th ed. 2020)

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Thomas Lee Hazen, *Tulips, Oranges, Worms, and Coins – Virtual, Digital, or Crypto Currency and the Securities Laws*, 20 N.C. J.L. & TECH. 493 (2019).

Thomas Lee Hazen, *Virtual or Crypto Currencies and the Securities Laws*, 38 FUTURES & DERIVATIVES L. REP., Nov. 2018 at 1.



F. Andrew Hessick

Judge John J. Parker Distinguished Professor of Law and Associate Dean for Strategy

ARTICLES AND POLICY PAPERS

F. Andrew Hessick, *Federalism Limits on Non-Article III Adjudication*, 43 PEPP. L. REV. (forthcoming 2020).

F. Andrew Hessick, *Quasi-Sovereign Standing*, 94 NOTRE DAME L. REV. 1927 (2019).

F. Andrew Hessick & Elizabeth Fisher, *Structural Rights and Incorporation*, 71 ALA. L. REV. 163 (2019).

F. Andrew Hessick, *The Future of Administrative Deference*, 41 CAMPBELL L. REV. 421 (2019).

F. Andrew Hessick, *Consenting to Adjudication Outside the Article III Courts*, 71 VAND. L. REV. 715 (2018).

F. Andrew Hessick & William P. Marshall, *State Standing to Constrain the President*, 21 CHAP. L. REV. 83 (2018).

F. Andrew Hessick, *Remedial Chevron*, 97 N.C. L. REV. 1 (2018).



Carissa Byrne Hessick

Anne Shea Ransdell & William Garland "Buck" Ransdell, Jr. Distinguished Professor of Law and Associate Dean for Faculty Development

BOOKS AND BOOK CHAPTERS

Carissa Byrne Hessick, *Prosecutors and Voters*, in *THE OXFORD HANDBOOK ON PROSECUTORS AND PROSECUTION* (Ronald F. Wright et al. eds., forthcoming 2020).

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Carissa Byrne Hessick & Michael Morse, *Picking Prosecutors*, 105 IOWA L. REV. (forthcoming 2020).

Carissa Byrne Hessick, *The Myth of Common Law Crimes*, 105 VA. L. REV. 965 (2019).

Carissa Byrne Hessick & W.W. Berry, *Sixth Amendment Sentencing After Hurst*, 66 UCLA L. REV. 448 (2019).

Carissa Byrne Hessick & Joseph E. Kennedy, *Criminal Clear Statement Rules*, 97 WASH. U. L. REV. 351 (2019).

Carissa Byrne Hessick, *The Expansion of Child Pornography Law*, 21 NEW CRIM. L. REV. 321 (2018).

Carissa Byrne Hessick, *Towards a Series of Academic Norms for #Lawprof Twitter*, 101 MARQ. L. REV. 903 (2018).

THE PROSECUTORS AND POLITICS PROJECT, NATIONAL STUDY OF PROSECUTOR ELECTIONS (Carissa Byrne Hessick ed., 2020), <https://law.unc.edu/wp-content/uploads/2020/01/National-Study-Prosecutor-Elections-2020.pdf>.



Jeffrey M. Hirsch

Geneva Yeagan Rand Distinguished Professor of Law

BOOKS AND BOOK CHAPTERS

JEFFREY M. HIRSCH ET AL., *UNDERSTANDING EMPLOYMENT LAW* (3d ed. 2019).

JEFFREY M. HIRSCH, PAUL SECUNDA & JOSEPH SEINER, *MASTERING EMPLOYMENT DISCRIMINATION* (2d ed. 2018).

Jeffrey M. Hirsch, *Labor and Employment Law Issues in the Daimler-Chrysler Merger*, in *MAKING THE PIECES FIT: CROSS-BORDER MERGERS AND ACQUISITIONS AND THE DAIMLER-CHRYSLER DEAL* (Joan MacLeod Heminway & Maurice E. Stucke eds., forthcoming 2020).

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Jeffrey M. Hirsch, *Future Work*, 2020 ILLINOIS L. REV. (forthcoming).

Jeffrey M. Hirsch, *Introduction: #MeToo in the Workplace*, 23 EMP. RTS. & EMP. POL'Y J. 1 (2019).

Jeffrey M. Hirsch, *Southeastern Association of Law Schools Symposium: The "Plantation" Problem*, 86 UMKC L. REV. 537 (2018).

Jeffrey M. Hirsch & Joseph A. Seiner, *A Modern Union for the Modern Economy*, 86 FORDHAM L. REV. 1727 (2018).



Melissa B. Jacoby

Graham Kenan Professor of Law

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Edward J. Balleisen & Melissa B. Jacoby, *Consumer Protection after a Global Financial Crisis*, 107 GEO. L.J. 813 (2019).

Melissa B. Jacoby, *Corporate Bankruptcy Hybridity*, 166 U. PA. L. REV. 1715 (2018).



Eisha Jain

Assistant Professor of Law

ARTICLES AND POLICY PAPERS

Eisha Jain, *Private Immigration Verification*, 104 MINN. L. REV. (forthcoming 2020).

Eisha Jain, *The Interior Structure of Immigration Enforcement*, 167 U. PA. L. REV. 1463 (2019).



Thomas A. Kelley

James Dickson Phillips, Jr. Distinguished Professor of Law and Director of the UNC School of Law Institute for Innovation

ARTICLES AND POLICY PAPERS

Thomas A. Kelley, *The Death of Custom: Winners and Losers in the Legal Transformation of Peri-Urban Land in Niger*, SYRACUSE J. INT'L L. & COM. (forthcoming 2020).

Thomas A. Kelley & Christopher B. McLaughlin, *North Carolina's Nonprofit Property Tax Exemption Conundrum*, 96 N.C. L. REV. 1769 (2018).



Joseph E. Kennedy

Martha Brandis Term Professor of Law

BOOKS AND BOOK CHAPTERS

JOSEPH E. KENNEDY, CRIMINAL LAW: CASES, CONTROVERSIES AND PROBLEMS (2019).

ARTICLES AND POLICY PAPERS

Joseph E. Kennedy & Carissa Byrne Hessick, *Criminal Clear Statement Rules*, 97 WASH. U. L. REV. 351 (2019).

Joseph E. Kennedy, Isaac Unah & Kaci Wahlers, *Sharks and Minnows in the War on Drugs: A Study of Quantity, Race and Drug Type in Drug Arrests*, 52 U.C. DAVIS L. REV. 729 (2018).



Julie L. Kimbrough

Clinical Assistant Professor of Law and Deputy Director of the Law Library

BOOKS AND BOOK CHAPTERS

JULIE KIMBROUGH ET AL., NORTH CAROLINA LEGAL RESEARCH (3d ed. 2019).



Anne Klinefelter

Professor of Law and Director of the Law Library

BOOKS AND BOOK CHAPTERS

Anne Klinefelter, *The Value of an Academic Law Library in the 21st Century*, in ACADEMIC LAW LIBRARIES WITHIN THE CHANGING LANDSCAPE: A PRIMER FOR DEANS AND PROVOSTS (Michelle Wu ed., forthcoming 2020).



Joan H. Krause

Dan K. Moore Distinguished Professor of Law

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Joan H. Krause, *Commentary on Bouvia v. Superior Court*, in *FEMINIST JUDGMENTS: REWRITTEN HEALTH LAW OPINIONS* (Seema Mohapatra & Lindsay F. Wiley eds., forthcoming 2020).

Joan H. Krause & Tracey A. Elliott, *Introduction: Fraud and Abuse Law*, in *THE OXFORD HANDBOOK OF COMPARATIVE HEALTH LAW* (Tamara Hervey & David Orentlicher eds., forthcoming 2020).

Joan H. Krause, *Fraud and Abuse Law in the United States*, in *THE OXFORD HANDBOOK OF COMPARATIVE HEALTH LAW* (Tamara Hervey & David Orentlicher eds., forthcoming 2020).

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Joan H. Krause & Richard S. Saver, *Real World Evidence in the Real Word: Beyond the FDA*, 44 AM. J.L. & MED. 161 (2018).

Joan H. Krause et al., *Preventing Egregious Ethical Violations in Medical Practice: Evidence-Informed Recommendations from a Multidisciplinary Working Group*, J. MED. REG., Dec. 2018, at 23.



Holning Lau

Willie Person Mangum Distinguished Professor of Law

BOOKS AND BOOK CHAPTERS

Holning Lau, *Courts, the Law, and LGBT Rights in Asia*, in *OXFORD RESEARCH ENCYCLOPEDIA OF POLITICS* (William R. Thompson ed., forthcoming 2020).

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Holning Lau, *Gender Recognition as a Human Right*, in *THE CAMBRIDGE HANDBOOK OF NEW HUMAN RIGHTS: RECOGNITION, NOVELTY, RHETORIC* (Andreas von Arnould, Kerstin von der Decken & Mart Susi eds., 2020).

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Holning Lau, *Introduction to the Colloquium on LGBTQI Rights*, 44 N.C. J. INT'L L. 217 (2019).

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William P. Marshall

William Rand Kenan Jr. Distinguished Professor of Law

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William P. Marshall, *The Limits on Congress's Power to Do Nothing*, 93 IND. L.J. 159 (2018).

William P. Marshall, *The First Amendment in Contemporary Society: The Thirty-Sixth Annual Federalist Society National Student Symposium on Law and Public Policy—2017: Extricating the Religious Exemption Debate from the Cultural Wars*, 41 HARV. J.L. & PUB. POL'Y 67 (2018).

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Jonas J. Monast

C. Boyden Gray Distinguished Fellow, Assistant Professor, and Director of the Center on Climate, Energy, Environment & Economics (CE³)

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Jonas J. Monast, *The Ends and Means of Decarbonization: The Green New Deal in Context*, 50 ENVTL. L. REV. (forthcoming 2020).

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Jonas J. Monast, *Governing Extinction in the Era of Gene Editing*, 97 N.C. L. REV. 1329 (2019).

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JONAS J. MONAST ET AL., *HARNESSING COMPETITION IN A TRANSITIONING ELECTRICITY SYSTEM: OPPORTUNITIES FOR TRADITIONAL COST-OF-SERVICE STATES* (2019), https://law.unc.edu/wp-content/uploads/2019/09/harnessing_competition_in_a_transitioning_electricity_system_web.pdf.



Robert P. Mosteller

J. Dickson Phillips Distinguished Professor of Law

BOOKS AND BOOK CHAPTERS

ROBERT P. MOSTELLER ET AL., *MCCORMICK ON EVIDENCE* (8th ed. 2020).



Eric L. Muller

Dan K. Moore Distinguished Professor of Law in Jurisprudence and Ethics

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Eric L. Muller, *The Nazi Analogy in Japanese American Civil Rights Discourse*, *PATTERNS OF PREJUDICE* (forthcoming 2020).

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Richard E. Myers

Henry Brandis Distinguished Professor of Law Emeritus

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Richard E. Myers, *Police-Generated Digital Video: Five Key Questions, Multiple Audiences, and a Range of Answers*, 96 *N.C. L. REV.* 1237 (2018).

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Peter Nemerovski

Clinical Associate Professor of Law

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Peter Nemerovski, *Help Wanted: An Empirical Study of LRW Hiring*, 24 *J. LEGAL WRITING INST.* (forthcoming 2020).

Peter Nemerovski, *Mental Health in the Legal Profession: Starting a Conversation with the Lawyers of Tomorrow*, *N.C. B.J.*, Winter 2019, at 8.



Gene R. Nichol

Boyd Tinsley Distinguished Professor of Law

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GENE R. NICHOL, *INDECENT ASSEMBLY: THE NORTH CAROLINA LEGISLATURE'S BLUEPRINT FOR THE WAR ON DEMOCRACY AND EQUALITY* (forthcoming 2020).

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Gene R. Nichol, *Forcing Judges to Criminalize Poverty in North Carolina*, UCLA CRIM. JUST. L. REV. (forthcoming 2020).

Gene R. Nichol, *Political Interference with Academic Freedom and Free Speech at Public Universities*, ACADEME, Fall 2019 at 17.

Gene R. Nichol & Heather Hunt, *Criminalizing Poverty in North Carolina*, 41 N.C. CENT. L. REV. 25 (2019).

Gene R. Nichol, *Losing Carolina*, 25 SOUTHERN CULTURES 106 (2019).

GENE R. NICHOL & HEATHER HUNT, "SURVIVING THROUGH TOGETHER": HUNGER, POVERTY AND PERSISTENCE IN HIGH POINT, NORTH CAROLINA (2019), <https://law.unc.edu/wp-content/uploads/2019/12/HighPointHungerReport2019.pdf>.



Donna L. Nixon

Clinical Associate Professor of Law and Electronic Resources Librarian

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Donna L. Nixon, *The Integration of UNC-Chapel Hill – Law School First*, 97 N.C. L. REV. 1741 (2019).



John V. Orth

William Rand Kenan Jr. Professor of Law

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John V. Orth, *Blackstone*, in *OXFORD HANDBOOKS OF LEGAL HISTORY* (Marcus D. Dubber & Christopher Tomlins eds., 2018).

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John V. Orth et al., *Balancing Justice Needs and Private Property in Constitutional Takings Provisions: A Comparative Assessment of India, Australia, and the United States*, 42 *FORDHAM INT'L L.J.* 999 (2019).



Leigh Osofsky

Professor of Law

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Mary-Rose Papandrea

Samuel Ashe Distinguished Professor of Constitutional Law and Associate Dean for Academic Affairs

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Mary-Rose Papandrea, *Media Litigation in a Post-Gawker World*, 93 TUL. L. REV. 1105 (2019).

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Kathryn A. Sabbeth

Associate Professor of Law

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Kathryn A. Sabbeth, *Simplicity as Justice*, 2018 WIS. L. REV. 287.



Oscar J. Salinas

Clinical Professor of Law and Director of the Academic Excellence Program

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Richard S. Saver

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Craig T. Smith

Clinical Professor of Law and Assistant Dean for the Writing and Learning Resources Center

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Rick Su

Professor of Law

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Kathleen DeLaney Thomas

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Judith Welch Wegner

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Deborah M. Weissman

Reef C. Ivey II Distinguished Professor of Law

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Erika K. Wilson

Thomas Willis Lambeth Distinguished Chair in Public Policy, Associate Professor of Law, and Director of Clinical Programs

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160 Ridge Road, CB #3380
Chapel Hill, NC 27599-3380
law.unc.edu