# OKLAHOMA CITY UNIVERSITY LAW REVIEW

VOLUME 41

WINTER 2016

NUMBER 3

### 2016–2017 BOARD OF EDITORS

CEDRIC C. M. BOND Editor in Chief EMILY E. GREEN Managing Editor

TAYLOR TYLER *Resource Editor*  SARAH WILLEY Resource Editor

CHRISTOPHER CALVERT Articles Editor

Distinguished Members

TYLER ALLBERY MICHAEL DIAL ALYSSA KING Kristin Richards

Staff Members

STEPHANIE ANDERSON BROOKE BALLARD SHANNON BELL ANDREW S. BULLARD BREANNA CARY CHRISTOPHER D. CUMMINGS DEBRA DAVIS PRESTON M. GUNKEL TRAVIS HARRISON TESSA L. HENRY J. MATT HILL MICHELE INMAN KELLY KINSER LAUREN LENAHAN MARTIN J. LOPEZ III CALEB LUECK ASHLEY N. MCCORD ELKE MEEÙS TERCEL MARIA MERCADO-GEPHART ALEX PEDRAZA JAMES R. MOODY TRACY NEEL KHAKI SCRIVNER MACKENZIE SMITH MARLEY SPARKMAN ROBERT STEVENS KATIE N. WAGNER BRANDON WILLIAMSON TAYLOR WYATT

VICKI LAWRENCE MACDOUGALL Faculty Advisor

LAANA LAYMAN Editorial Publishing Coordinator

MEMBER, NATIONAL CONFERENCE OF LAW REVIEWS

The *Oklahoma City University Law Review* is published by students of Oklahoma City University School of Law. Our e-mail address is: okclrev@okcu.edu. POSTMASTER: Send address changes to Oklahoma City University Law Review, 800 N. Harvey Avenue, Oklahoma City, OK 73102.

**Subscriptions:** Subscriptions cost \$30.00 per volume, payable in advance. Add \$5.00 postage for foreign subscriptions. Subscriptions are accepted only on a volume basis for the volume year. If notice of cancellation is not received one-month before the expiration of a subscription, it will be automatically renewed. Notification of changes should include both old and new addresses and should be made two months in advance. Unless a claim is made for nonreceipt of copies within four months of the mailing date, the Oklahoma City University Law Review cannot be held responsible for supplying those issues without charge. All address changes and other requests for subscription information should be sent to okclrev@okcu.edu.

**Manuscripts:** The Oklahoma City University Law Review invites the submission of unsolicited articles, essays, and reviews concerning all facets of the law and legal problems. Manuscripts should follow the format used in the current issue. The Law Review regrets that it can return only those manuscripts for which it receives a self-addressed envelope and postage and handling fees. The Law Review prefers submission of manuscripts via e-mail or ExpressO. In keeping with recent trends in legal scholarship, the Law Review seeks to bring insights from the humanities and social sciences to law. It also publishes works on developments in Oklahoma law. The Law Review is edited and managed by a student board of editors in conjunction with a faculty advisor and an editorial advisory board.

**Disclaimer:** The Oklahoma City University Law Review seeks to provide general information regarding subjects of interest to the legal community. The views and opinions expressed by any author are solely those of the author and do not necessarily reflect the views and opinions of Oklahoma City University, the Oklahoma City University School of Law, or the Oklahoma City University Law Review.

**Copyright:** Copyright 2017 by Oklahoma City University. Except where otherwise expressly provided, the author of each article, note, comment, and review in this issue granted permission for copies of that manuscript to be duplicated for educational and classroom use, provided that: (1) each copy is distributed at or below cost; (2) the author and the *Oklahoma City University Law Review* are identified; (3) proper notice of copyright is affixed to each copy; and (4) the Oklahoma City University Law Review is notified of the use.

**Production:** Except where common sense dictates otherwise, the footnotes and text in the *Oklahoma City University Law Review* conform to the twentieth edition of *The Bluebook:* A Uniform System of Citation. The Oklahoma City University Law Review also relies on the grammatical guidelines in the third edition of *The Redbook: A Manual of Legal Citation* and the sixteenth edition of *The Chicago Manual of Style*. The Law Review embraces public-domain citations for state cases and statutes, and it has adopted Perma.cc as its official archival tool for web-based sources. The *Oklahoma City University Law Review* is printed by Joe Christensen, Inc. in Lincoln, Nebraska.

**Single and Back Issues:** Each issue of the Oklahoma City University Law Review's current volume may be purchased for \$15.00 from the Law Review (check must accompany order). Double issues are \$20.00 each. For back issues, inquire of William S. Hein & Co., Inc., 1285 Main Street, Buffalo, NY 14209, 1-800-828-7571. Recent issues beginning with Volume 37 are available online in PDF format at law.okcu.edu.

#### OKLAHOMA CITY UNIVERSITY SCHOOL OF LAW Winter 2016

#### ADMINISTRATION

Robert H. Henry, B.A., J.D., University President and CEO

Valerie K. Couch, B.A., M.A., J.D., Dean and Professor of Law

Eric T. Laity, B.A., J.D., Associate Dean for Academic Affairs and Professor of Law

Laurie Jones, B.A., J.D., Associate Dean for Admissions and Legal Research and Writing Professor

#### FACULTY

- Dennis W. Arrow, B.A., J.D., LL.M., Professor of Law, Associate Director of the American Indian Law and Sovereignty Center, and Associate Director of the Center for the Study of State Constitutional Law and Government
- Phyllis E. Bernard, A.B., M.A., J.D., Professor of Law and Director of the Center on Alternative Dispute Resolution
- Marc J. Blitz, B.A., J.D., Ph.D., Alan Joseph Bennett Professor of Law

Paul M. Clark, B.A., J.D., Legal Research and Writing Professor

Paula J. Dalley, A.B., J.D., LL.M., Professor of Law

Sabrina Davis, B.A., J.D., M.A., Reference Librarian and Law Library Professor

Peter G. Dillon, B.A., J.D., LL.M., Associate Professor of Law

Karen Eby, B.S., J.D., Legal Research and Writing Professor

- Greg Eddington, B.B.A., J.D., LL.M., Legal Research and Writing Professor and Director of the Legal Research and Writing Program
- Steven R. Foster, B.A., J.D., Instructor in Law and Director of Academic Achievement
- Timothy Gatton, B.A., J.D., M.L.I.S., Head of Reference Services and Law Library Professor
- Michael T. Gibson, B.A., J.D., Professor of Law

Alvin C. Harrell, B.S., M.B.A., J.D., LL.M., Professor of Law

Lawrence K. Hellman, B.S., M.B.A., J.D., Dean Emeritus and Professor of Law

Barry L. Johnson, B.A., J.D., Professor of Law

Danné L. Johnson, B.A., J.D., Constance Baker Motley Professor of Law

Arthur LeFrancois, B.A., J.D., Professor of Law

- Edward C. Lyons, B.A., M.A., J.D., Ph.D., Professor of Law
- Vicki Lawrence MacDougall, B.A., J.D., Professor of Law, Law Review Faculty Advisor, and Director of the Health Law Program
- Michael Mitchelson, B.A., M.P.A., J.D., Clinical Professor and Director of Externship Programs
- Michael O'Shea, B.A., M.A., J.D., Professor of Law and Associate Director of the Center for the Study of State Constitutional Law and Government
- Lee F. Peoples, B.A., J.D., M.L.I.S., Frederic Charles Hicks Professor of Law and Director of the Law Library

Jennifer Prilliman, B.A., J.D., M.L.I.S., Law Library Professor and Associate Director of the Law Library Shannon Roesler, B.A., M.A., M.A., J.D., LL.M., Professor of Law

Casey Ross, B.A., M.B.A., J.D., University General Counsel, Clinical Professor, Director of the American Indian Law and Sovereignty Center, and Director of the American Indian Wills Clinic

Andrew C. Spiropoulos, B.A., M.A., J.D., Robert S. Kerr, Sr., Professor of Constitutional Law and Director of the Center for the Study of State Constitutional Law and Government

- Carla Spivack, A.B., J.D., Ph.D., Oxford Professor of Law
- Deborah S. Tussey, B.A., J.D., LL.M., Professor of Law

## OKLAHOMA CITY UNIVERSITY LAW REVIEW

VOLUME 41

#### WINTER 2016

NUMBER 3

## ARTICLE

The Evolution of Workers' Compensation Law in Oklahoma: Is the Grand Bargain Still Alive?

Bob Burke ... 337

### ESSAY

Remembering *Gilchrist* and the Importance of Federal Executive Restraint Steven T. Voigt ... 425

### NOTE

Finding a Balance Between Hiring Ex-Offenders and Protecting Private Employers in Oklahoma—The Need to Reform the Negligent-Hiring Standard, Enact a Fair-Chance Policy, and Establish a Statutory Presumption Against Negligent Hiring Emily Elizabeth Green ... 439

### **COMMENTS**

<i>Moore v. Warr Acres</i> : Expansion of Oklahoma's Public Policy Exception to the At-Will Employment Doctrine	Brooke Ballard 481
Following the Public Policy Exception: Does This Exception Still Accomplish Its Original Goal?	Debra Davis 501
Informed Consent: Oklahoma Pursues Its Sweeping Reforms of the Informed-Consent Doctrine. But What Are Its Limits?	Elke Meeùs 523