

Oklahoma Law Review

Volume 52 | Number 4

1-1-1999

Volume 52 1999

Follow this and additional works at: <https://digitalcommons.law.ou.edu/olr>



Part of the [Law Commons](#)

Recommended Citation

Volume 52 1999, 52 OKLA. L. REV. 693 (1999),
<https://digitalcommons.law.ou.edu/olr/vol52/iss4/9>

This Index is brought to you for free and open access by University of Oklahoma College of Law Digital Commons. It has been accepted for inclusion in Oklahoma Law Review by an authorized editor of University of Oklahoma College of Law Digital Commons. For more information, please contact darinfox@ou.edu.

OKLAHOMA LAW REVIEW

EDITED BY THE COLLEGE OF LAW
THE UNIVERSITY OF OKLAHOMA

VOLUME 52
1999

VOLUME 52

Index to Articles	693
Index to Book Reviews	693
Index to Comments & Notes	694
Index to Authors — Articles	695
Index to Authors — Comments & Notes	696
Table of Cases	697
Subject Index	699

*Copyright 2000 by the Oklahoma Law Review
Manufactured in the United States of America*

INDEX TO ARTICLES

Another Look at Evolving Standards: Will Decency Prevail Against Executing the Mentally Retarded? <i>Bryan Lester Dupler</i>	593	The President As His Own Judge and Jury: A Legal Analysis of the Presidential Self-Pardon Power. <i>Robert Nida & Rebecca L. Spiro</i>	197
The Constitutional Limits of Judicial Review: A Structural Interpretive Approach. <i>Jack Wade Nowlin</i>	521	Promoting Medical Research Without Sacrificing Patient Autonomy: Legal and Ethical Issues Raised by the Waiver of Informed Consent for Emergency Research. <i>Sandra J. Carnahan</i>	565
Democratization and . . . Administrative Law. <i>Paul H. Brietzke</i>	1	Reconciling the Exercise of Judgment and the Objective Standard of Care in Medical Malpractice. <i>Joseph H. King, Jr.</i>	49
The Effect of Presidential Pardons on Disclosure of Information: Is Our Cynicism Justified? <i>Charles D. Berger</i>	163	Secured Transactions History: The Impact of Textile Machinery on the Chattel Mortgage Acts of the Northeast. <i>George Lee Flint, Jr.</i>	303
The Morality of Insider Trading in the United States and Abroad. <i>Ranzi Nasser</i>	377		
Nonagent Brokerage: Real Estate Agents Missing in Action. <i>Patricia A. Wilson</i>	85		

INDEX TO BOOK REVIEWS

Immigration and the New Nativism: A Review Essay: <i>Immigrants Out! The New Nativism and the Anti-Immigrant Impulse in the United States</i> , edited by Juan F. Perea (Harvey Gee)	685	Relevance, Reliability, and Validity of Scientific Evidence: <i>Judging Science: Scientific Knowledge and the Federal Courts</i> , by Kenneth R. Foster & Peter W. Huber (Robert Timothy Reagan)	291
		<i>The Empire Strikes Back: Outsiders and the Struggle Over Legal Education</i> , by Arthur Austin (Erik M. Jensen)	515

INDEX TO COMMENTS & NOTES

<p>Antitrust Laws: A Long Time Coming — United States Supreme Court Adopts the "Rule of Reason" Test for Vertical Maximum Price Fixing Cases in <i>State Oil Co. v. Kahn</i>. <i>Jarod Spencer Gonzalez</i> (n)</p>	645	<p>Employment Law: <i>Burlington Industries, Inc. v. Ellerth</i> and <i>Faragher v. City of Boca Raton</i>: A Clear Rule of Deterrence or an Invitation to Litigate? The Supreme Court Rules on Employer Liability for Supervisory Sexual Harassment. <i>Bryan J. Pattison</i> (n)</p>	461
<p>Civil Procedure: Exclusion of Injured or Disfigured Plaintiffs from Trial — <i>Cary v. Oneok, Inc.</i> — A Solution to the Exclusion Issue or Bad Precedent? <i>Kristy Freeman</i> (n)</p>	109	<p>Federal Indian Law: Tribal Sovereign Immunity: Why Oklahoma Businesses Should Revamp Legal Relationships with Indian Tribes After <i>Kiowa Tribe of Oklahoma v. Manufacturing Technologies, Inc.</i> <i>David B. Jordan</i> (n)</p>	489
<p>Commercial Law: Determining Repugnancy in an Electronic Age: Excluded Transactions Under Electronic Writing and Signature Legislation. <i>Christopher B. Woods</i> (c)</p>	411	<p>Oil and Gas: Top Leasing After <i>Voiles v. Santa Fe Minerals</i> — Unethical Claim-jumping or Prudent Business Practice? <i>Marichiel Lewis</i> (n)</p>	127
<p>Corporate Officer and Director Liability: <i>Atherton v. Federal Deposit Insurance Corporation</i>: A Final Resolution of the Issues Surrounding Section 1821(k) of FIRREA. <i>Tiffany Z. Stuart</i> (n)</p>	251	<p>Oil and Gas: <i>Watts v. Atlantic Richfield Co.</i>: Lessor's Distant Beacon of Hope — Will Oklahoma See It? <i>Stephen Joseph Capron</i> (n)</p>	145
<p>Criminal Law: "Am I My Brother's Keeper?" Sherrice's Law: A Balance of American Notions of Duty and Liberty. <i>Justin T. King</i> (c)</p>	613	<p>Preemption: The Federal Employees Health Benefit Act (FEHBA): Why the Oklahoma Supreme Court Was Wrong in Allowing State Claims in <i>Kincade v. Group Health Services</i>. <i>Matthew P. Sallusti</i> (n)</p>	273
<p>Employee Benefits: ERISA Enhance Benefit Claims and the Seventh Amendment: No Common Ground in the Tenth Circuit — <i>Adams v. Cyprus Amax Minerals Company</i>. <i>Amy Nixon</i> (n)</p>	665	<p>Torts: The Oklahoma Drug Dealer Liability Act: A Civil Remedy for a "Victimless" Crime. <i>Clinton W. Taylor</i> (c)</p>	227

INDEX TO AUTHORS — ARTICLES

<p>Berger, Charles D. <i>The Effect of Presidential Pardons on Disclosure of Information: Is Our Cynicism Justified?</i></p>	163	<p>King, Jr., Joseph H. <i>Reconciling the Exercise of Judgment and the Objective Standard of Care in Medical Malpractice</i></p>	49
<p>Brietzke, Paul H. <i>Democratization and . . . Administrative Law</i></p>	1	<p>Nasser, Ramzi. <i>The Morality of Insider Trading in the United States and Abroad</i></p>	377
<p>Carnahan, Sandra J. <i>Promoting Medical Research Without Sacrificing Patient Autonomy: Legal and Ethical Issues Raised by the Waiver of Informed Consent for Emergency Research</i></p>	565	<p>Nida, Robert and Spiro, Rebecca L. <i>The President As His Own Judge and Jury: A Legal Analysis of the Presidential Self-Pardon Power</i></p>	197
<p>Dupler, Bryan Lester. <i>Another Look at Evolving Standards: Will Decency Prevail Against Executing the Mentally Retarded?</i></p>	593	<p>Nowlin, Jack Wade. <i>The Constitutional Limits of Judicial Review: A Structural Interpretive Approach</i></p>	521
<p>Flint, George Lee, Jr. <i>Secured Transactions History: The Impact of Textile Machinery on the Chattel Mortgage Acts of the Northeast</i></p>	303	<p>Wilson, Patricia A. <i>Nonagent Brokerage: Real Estate Agents Missing in Action</i></p>	85

INDEX TO AUTHORS — COMMENTS & NOTES

<p>Capron, Stephen Joseph <i>Oil and Gas: Watts v. Atlantic Richfield Co.: Lessor's Distant Beacon of Hope -- Will Oklahoma See It?</i> (n)</p>	145	<p>Nixon, Amy. <i>Employee Benefits: ERISA Enhanced Benefit Claims and the Seven Amendment: No Common Ground in the Tenth Circuit</i> — Adams v. Cyprus Amax Minerals Co. (n)</p>	665
<p>Freeman, Kristy. <i>Civil Procedure: Exclusion of Injured or Disfigured Plaintiffs from Trial</i> — Cary v. Oneok, Inc. — A Solution to the Exclusion Issue or Bad Precedent? (n)</p>	109	<p>Pattison, Bryan J. <i>Employment Law: Burlington Industries, Inc. v. Ellerth and Faragher v. City of Boca Raton: A Clear Rule of Deterrence or an Invitation to Litigate? The Supreme Court Rules on Employer Liability for Supervisory Sexual Harassment</i> (n)</p>	461
<p>Gonzalez, Jarod Spencer. <i>Antitrust Law: A Long Time Coming -- United States Supreme Court Adopts the "Rule of Reason" Test for Vertical Maximum Price Fixing Cases in State Oil Co. v. Kahn</i> (n)</p>	645	<p>Sallusti, Matthew P. <i>Preemption: The Federal Employees Health Benefit Act (FEHBA): Why the Oklahoma Supreme Court Was Wrong in Allowing State Claims in Kincaide v. Group Health Services</i> (n)</p>	273
<p>Jordan, David B. <i>Federal Indian Law: Tribal Sovereign Immunity: Why Oklahoma Businesses Should Revamp Legal Relationships with Indian Tribes After Kiowa Tribe of Oklahoma v. Manufacturing Technologies, Inc.</i> (n)</p>	489	<p>Stuart, Tiffany Z. <i>Corporate Officer and Director Liability: Atherton v. Federal Deposit Insurance Corporation: A Final Resolution of the Issues Surrounding Section 1821(k) of FIRREA</i> (n)</p>	251
<p>King, Justin T. <i>Criminal Law: "Am I My Brother's Keeper?" Sherrice's Law: A Balance of American Notions of Duty and Liberty</i> (c)</p>	613	<p>Taylor, Clinton W. <i>Torts: The Oklahoma Drug Dealer Liability Act: A Civil Remedy for a "Victimless" Crime</i> (c)</p>	227
<p>Lewis, Marichiel. <i>Oil and Gas: Top Leasing After Voiles v. Santa Fe Minerals -- Unethical Claim-jumping or Prudent Business Practice?</i> (n)</p>	127	<p>Woods, Christopher B. <i>Commercial Law: Determining Repugnancy in an Electronic Age: Excluded Transactions Under Electronic Writing and Signature Legislation</i> (c)</p>	411

TABLE OF CASES

<p>Adams v. Cyprus Amax Minerals Co. 665, 672-83</p> <p>Albrecht v. Herald Co. 645, 648, 651-55, 657-58, 662</p> <p>All Care Nursing Servs., Inc. v. High Tech Staffing Servs., Inc. 659-60</p> <p>Ash v. Savage 341</p> <p>Atherton v. Federal Deposit Ins. Corp. 252, 260-72</p> <p>Atlantic Richfield Co. v. USA Petroleum Co. 655</p> <p>Barnes v. Costle 463</p> <p>Bell v. Great Lakes Container Corp. 114-15, 121</p> <p>Blatchford v. Native Village of Noatak 491-92</p> <p>Bolstridge v. Central Maine Power Co. 125</p> <p>Brown v. Walker 189-90</p> <p>Bullock v. Williams 338-39</p> <p>Burdick v. United States 164, 190</p> <p>Burke v. K-Mart 483, 485-87</p> <p>Burlington Indus., Inc. v. Ellerth 461-62, 468-74, 476-80, 486-87</p> <p>Burroughs v. Wynn 398-99</p> <p>Burton v. Brooklyn Doctors Hosp. 73-78</p> <p>Butler v. Van Wyck 340</p> <p>Callison v. Callison 124</p> <p>Capaldi v. State 635</p> <p>Carlesi v. New York 187</p> <p>Cary v. Oneok, Inc. 110, 113, 115-26</p> <p>Case v. Fibreboard 245-47</p> <p>Chauffeurs, Teamsters & Helpers Local No. 391 v. Terry 674-83</p> <p>Chiarella v. United States 398</p> <p>Chicago Bd. of Trade v. United States 647</p> <p>Clow v. Woods 312-13</p> <p>Connally v. General Constr. Co. 642-43</p> <p>Daubert v. Merrill Dow Pharms., Inc. 291-301, 606</p> <p>Diamond Shamrock Exploration Co. v. Hodel 148-50, 156-57</p> <p>Dickson v. Bober 111-13</p> <p>Dixon v. Picopa Constr. Co. 507</p> <p>Dr. Miles Med. Co., v. John D. Park & Sons Co. 648-50</p> <p>Eddings v. Oklahoma 597-98</p> <p>Enmund v. Florida 599</p> <p><i>Ex parte</i></p> <p>— Crow Dog 503</p> <p>— Garland 173-74, 184-86, 220</p> <p>— Grossman 173-74, 177-79, 181-83, 220-21</p>	<p>Faragher v. City of Boca Raton 461-62, 468-70, 474, 476-80, 486-87</p> <p>Federal Deposit Ins. Corp. v. Canfield 256-58, 270</p> <p>Federal Deposit Ins. Corp. v. McSweeney 257</p> <p>Fillippon v. Albion Vein Slate Co. 109-10</p> <p>Firestone Tire & Rubber Co. v. Bruch 669-71, 673, 676, 681</p> <p>Flood v. Kuhn 658</p> <p>Ford v. Wainwright 594, 599, 609</p> <p>Frey v. Amoco Prod. Co. 151-52, 161</p> <p>Frye v. United States 293</p> <p>Goepel v. National Postal Mail Handlers Union 277, 286</p> <p>Gompers v. Bucks Stove & Range Co. 176</p> <p>Gypsy Oil Co. v. Marsh 129-31</p> <p>Haley v. Byers Transp. Co. 125</p> <p>Harold's Stores, Inc. v. Dillard Dep't Stores, Inc. 662</p> <p>Harvey E. Yates Co. v. Powell 150, 155-58</p> <p>Helminski v. Ayerst Lab. 112-13, 116-17</p> <p>Henson v. City of Dundee 464-65</p> <p>Hessenthaler v. Farzin 435-36</p> <p>Hicks v. Gates Rubber Co. 467-68</p> <p>Hoit v. Remick 339</p> <p>Hood v. Hagler 247</p> <p>Hoover v. Kiowa Tribe 489, 493-96, 500, 509</p> <p>Howard v. Group Hosp. Serv. 286-87</p> <p>Hudson v. United States 241-43</p> <p>Idaho v. Coeur d'Alene Tribe 492</p> <p><i>In re</i></p> <p>— Abrams 186-87</p> <p>— Cady, Roberts & Co. 392-93</p> <p>— Century Offshore Management Corp. 150-51, 156-57</p> <p>— Greene 493</p> <p>— Rich 114, 120</p> <p>— Richardson-Merrell, Inc. "Benedictin" Prods. Liab. Litig. 113, 123</p> <p>Ingersoll-Rand Co. v. McCledon 669-71</p> <p>Jackson v. Mercy Health Ctr., Inc. 632</p> <p>Jenekes v. Goffe 339</p> <p>Jennings v. Elliot 130-31</p> <p>Jones v. Nicoma Park Radio & Television Serv. 114</p> <p>Karibian v. Columbia Univ. 468</p> <p>Kastigar v. United States 189-90</p> <p>Kiefer-Stewart Co. v. Joseph E. Seagram & Sons, Inc. 651</p> <p>Killam Oil Co. v. Bruni 149</p>
---	---

Kincade v. Group Health Servs.	274-75, 277-89	Sac & Fox Nation v. Hanson	493
Kiowa Tribe v. Mfg. Techs., Inc.		Santa Clara Pueblo v. Martinez	491, 512
	489-90, 492, 494-503, 507, 509, 513	Schick v. Reed	221
Klein v. Jones	152	Shafer v. Bulk Petroleum Corp.	654-55
Knote v. United States	178	Shillitani v. United States	193
Knutson v. Daily Review, Inc.	653-54	Simons v. McDaniel	131, 140, 142
Lambert v. State	594, 607-10	Sindell v. Abbott Lab.	244-45
List v. Anchor Paint Mfg., Co.	484-86	Smith v. Eli Lilly	245
Lockett v. Ohio	597-98	Smith v. Moore	339
Marbury v. Madison		State <i>ex rel.</i> May v. Seneca-Cayuga Tribe	494
	523, 527, 531, 541-42, 546	State v. Joyce	626-28
Marshall v. OK Rental & Leasing, Inc.	485-86	— v. LaPlante	626-27
McIntosh v. Murphy	435	State Oil Co. v. Kahn	645, 648, 651, 655-63
Meritor Sav. Bank, FSB v. Vinson		Steele v. Offshore Shipbuilding, Inc.	468
	466-68, 471, 473-78	Steeple v. Time Ins. Co.	672, 681
Mertens v. Hewitt Assocs.	669, 671	Strubhart v. Perry Mem'l Hosp. Trust Auth.	123
Miller v. Bank of America	464	Summers v. Tice	246-47
Mitchell v. Amerada Hess Corp.	130, 136, 139	Swift v. Thompson	303-07, 327, 330, 346, 370
Montana v. United States	494, 500	Talton v. Mayes	503
Morley v. Superior Court of Ariz.	110, 111-13	Tara Petroleum Corp. v. Hughey	154-55
Mullane v. Central Hanover Bank & Trust Co.		Tate v. Browning-Ferris, Inc.	481-86
	443-44	Teague v. Lane	598
National Bank v. Commonwealth	267	The Laura	181
Nevada v. Hall	493, 500, 502	Thompson v. Oklahoma	594, 599-600, 603-04
Nichols v. Frank	468	Three Affiliated Tribes of the Fort Berthold	
Nixon v. United States	187	Reservation v. Wold Eng'g	491
Northern Pac. Ry. Co. v. United States		Three "M" Invs., Inc. v. Ahrend Co.	124
	647, 661	Tompkins v. Public Serv. Elec. & Gas Co.	463-64
Northwest Publications, Inc. v. Crumb	653-54	Toolson v. New York Yankees, Inc.	658
O'Melveny & Myers v. Federal Deposit Ins.		Toth v. Community Hosp. at Glen Cove	
Corp.	262, 265		71-73, 75-78
Oklahoma Tax Comm'n v. Citizen Band		Turner v. United States	490-91, 495-97
Potawatomi Indian Tribe	492-93, 501	Twyne's Case	343
Ollman v. Evans	610	United States v. Colgate	649-50
Pack v. Santa Fe Minerals	133-35, 137-38	— v. Halper	241-42
Palsgraf v. Long Island R.R.	243-44	— v. Socony-Vacuum Oil Co., Inc.	650-51
Parris v. McCallay	120	— v. United States Fidelity & Guar. Co.	491
Pegg v. General Motors Corp.	672	— v. Wilson	164, 184, 187, 191, 220
Penry v. Lynaugh	593-606, 609-10	Vicinanzo v. Brunschwig & Fils	681
Piney Woods Country Life Sch. v. Shell Oil		Voiles v. Santa Fe Minerals	127, 129, 132-43
Co.	160	Waddle v. Waddle	113-14
Prete v. Laudano	229	Watson v. State	123-24
Pueblo of Acoma v. Padilla	493	Watts v. Atlantic Richfield Co.	145-46, 152-61
Puyallup Tribe, Inc. v. Department of Game		Weems v. United States	604
	491	Wilkins v. Iowa Ins. Comm'rs	459
Resolution Trust Corp. v. Chapman	267	Willan v. Farrar	130-31
Robinson v. Continental Oil Co.	131	Wood v. Eli Lilly	245, 247
Roe v. Wade	556	— v. Lowry	340-41
Rooney v. Medical Ctr. Hosp., Inc.	66		
Rorex v. Karcher	129-31, 142		
Roye Realty & Developing, Inc. v. Watson			
	145-46, 149-50, 153-59, 161		

SUBJECT INDEX

(a) refers to articles (c) refers to comments (n) refers to notes (b) refers to book reviews

ADMINISTRATIVE LAW

See also Immigration, Government

Internal administrative law

- , generally (a) 17-27
- , industrial policy (a) 34-38
- , property rights (a) 31-34
- , regulation (a) 38-39
- , social welfare policies (a) 42-43

AGENCY

- Designated agency (a) 89-90
- Dual agency (a) 89, 92-98, 100
- Employer liability for supervisory sexual harassment
 - See* Employment Law
- Exclusive agency (a) 87-89, 91-92, 98
- Real estate brokers/agents
 - See* Professions and Occupations
- Restatement (Second) of Agency (a) (b) (n)
 - 87-88, 93-95, 467-68, 471, 474, 476-79

ANTITRUST

Horizontal restraints of trade

- , generally (n) 646, 649
- , maximum resale price fixing (n) 641
- Oklahoma Antitrust Law (n) 661-62
- Sherman Antitrust Act § 1 (n) 645-63
- Vertical restraints of trade
 - , case law (n) 648-61
 - , exclusive dealing (n) 646-47
 - , generally (n) 646-48
 - , history (n) 648-55
 - , Oklahoma (n) 661-62
 - , per se rule (n) 645, 647-61
 - , price fixing (n) 646, 648-51
 - , resale price maintenance (n) 646, 648-50
 - , rule of reason (n) 645, 647-48, 657-60
 - , tying arrangement (n) 647
 - , vertical maximum price fixing (n)
 - 645, 648-60
 - , vertical minimum price fixing (n)
 - 646, 648-49

ATTORNEYS

- Lawyer's role in democratization (a) 27-31

BANKS AND BANKING

Financial Institution Reform, Recovery, and Enforcement Act

- , adoption (n) 252-53
- , common law displacement (n) 258-60
- , generally (n) 251-72
- , officer and director liability, development of (n) 256-58
- , state law preemption (n) 256-58, 268-69

CIVIL PROCEDURE

See also Evidence

Right of injured or disfigured plaintiff to be present at trial

- , due process (n) 109-10, 122
- , evidentiary provisions, Oklahoma (n)
 - 122-24
- , Fifth Amendment (n) 109-10
- , functional approach (n) 110-13
- , jurisdictions other than Oklahoma (n)
 - 121-22
- , Oklahoma case law (n) 113-21

COMMERCIAL TRANSACTIONS

Electronic records and signatures, generally

- , biometrics (c) 417
- , digital signatures (c) 415
- , electronic records (c) 413-14
- , electronic signatures (c) 414-18
- Electronic writing and signature legislation
 - , application (c) 427-45
 - , exclusions, property (c) 433-39
 - , exclusions, wills (c) 429-33, 439
- Electronic writing and signature legislation, repugnancy
 - , definition (c) 424
 - , determining repugnancy (c) 439-45
 - , functions of writings and signatures (c)
 - 425-27
 - , generally (c) 440
 - , need for (c) 458-59
 - , Oklahoma Act (c) 412-15, 418-19, 440-55
 - , state laws other than Oklahoma (c) 419-21
- Electronic writing and signature legislation, Uniform Electronic Transaction Act (c)
 - , generally (c) 413, 421-24, 433, 439
 - , repugnancy provision (c) 421-24

- Formalism (c) 411-13
- Oklahoma Electronic Writings and Signatures Act of 1998
- , consumer protection laws (c) 445, 455
 - , generally (a) 412-15, 418-19
 - , negotiable instruments (c) 449-55
 - , repugnancy provision (c) 412-13, 419, 440, 458-59
 - , scope (c) 419
 - , Uniform Commercial Code (c) 445-55
 - , warranties (c) 448-49
 - Statute of Frauds (c) 425-26, 428-29, 433-36, 446-48
- CONSTITUTIONAL LAW
- Bill of Rights (a) 521-64
- Capital punishment, executing the mentally retarded
- , case analysis (a) 595-600
 - , Eighth Amendment (a) 593-61
 - , generally (a) 593-95
 - , legislation (a) 602-04, 611
 - , new consensus (a) 609-11
 - , Oklahoma (a) 594, 602, 607-09
 - , public opinion (a) 594-95, 601-02, 604-09
 - , standards of decency (a) 593-96, 599-607, 609-11
- Constitutional design (a) 521, 529-64
- Due process
- , drug dealer liability laws (c) 238-40
 - , rights of injured or disfigured plaintiff to be present at trial (n) 109-10, 122
- Impeachment
- , Clinton, President William J. (a) 198
 - , generally (a) 177, 182-84, 188-89, 199
- Judicial review, limits of
- , basic sources of law (a) 555-57
 - , burden of justification (a) 560-61
 - , constitutional design (a) 529-64
 - , constitutional theory (a) 549-53
 - , expansion of judicial power (a) 555-58
 - , generally (a) 521-22
 - , immigration laws (b) 688-89
 - , interpreting constitutional design (a) 553-63
 - , justification for judicial maximalism (a) 561-63
 - , legal-historical aspect of design interpretation (a) 554-58
 - , legislative v. judicial (a) 531-35
 - , logic of judicial review (a) 546-49
 - , minimalist constitutional limits of judicial review (a) 563
 - , moral-political aspect of design interpretation (a) 558-63
 - , structural approach (a) 541-63
 - , structural interpretive argument (a) 522-41
 - , structural justifications (a) 540
 - , structural nature of Bill of Rights (a) 538-40
 - , structure v. rights (a) 533
 - , substantive meaning Bill of Rights (a) 535-37
 - , traditional legal-historical sources of law (a) 554-55
 - , variables of judicial powers (a) 542-46
- Limitations of presidential pardoning power
- , calls for reform (a) 171-72, 221-22
 - , civil contempt (a) 172, 175-80, 195
 - , contempt of Congress (a) 180-84, 195
 - , offenses already committed (a) 172-75
 - , political restrictions (a) 172, 188-89
 - , punishment of offense (a) 184-88
 - , separation of powers (a) 173, 180-84, 195, 219-20
- Pardoning power of President
- , abuses (a) 191-94
 - , Bush, President George (a) 163-64, 168-70, 191-93, 212, 214-16
 - , Clinton, President William J. (a) 165-66, 170, 172, 191-94, 197, 221-25
 - , effect on disclosure of information (a) 163-95
 - , Ford, President Gerald A. (a) 163-64, 191-92, 213-14, 219
 - , generally (a) 163-65, 199-201, 205-07
 - , history (a) 201-16
 - , Iran-Contra (a) 163, 165, 168-71, 191-93, 212, 214, 216
 - , judicial precedent (a) 220-21
 - , Lewinsky, Monica (a) 170-71, 194
 - , Nixon, President Richard M. (a) 163-64, 166-68, 171, 191-92, 212-14, 219
 - , objections (a) 165
 - , original intent (a) 217-18
 - , post-conviction pardons (a) 171
 - , pre-conviction pardons (a) 171-73
 - , self incrimination (a) 189-91, 195
 - , self-pardon power (a) 197-225
 - , structural arguments (a) 218-19
 - , textual arguments (a) 216-17
 - , Watergate (a) 167-68, 191-92, 211
 - , Whitewater (a) 170-71, 193-94
- Plenary power (b) 688-89
- Preemption
- , Civil Rights Act of 1964, Title VII (n) 481-88
 - , Employee Retirement Income Security Act (n) 274, 279, 282-86, 289
 - , federal common law (n) 281-82

- , Financial Institution Reform, Recovery, and Enforcement Act (n) 256-58, 268-69
 - , generally (n) 273, 281-82
 - , Labor Management Relations Act (n) 274, 284
 - , tribal sovereign immunity (n) 501-02
 - Preemption, Federal Employees Health Benefits Act
 - , congressional intent (n) 280-81
 - , generally (n) 273-89
 - , history (n) 275-78
 - , Oklahoma (n) 273-89
 - Property rights in democratization (a) 31-34
 - Right of injured or disfigured plaintiff to be present at trial (a) 109-26
 - Right to jury trial
 - , ERISA claims (n) 665-83
 - , generally (n) 665-66
 - Self-incrimination (a) 189-91, 195
- CONTRACTS**
- Electronic writing and signature legislation
 - See* Commercial Transactions
 - Take or pay gas contracts
 - See* Oil and Gas
- CORPORATIONS**
- Corporate insider trading
 - See* Securities Regulation
 - Disclosures (a) 405-09
 - Insiders' duties to shareholders (a) 402-09
 - Officer and director liability
 - , duties owed (n) 251
 - , under Financial Institutions Reform, Recovery and Enforcement Act (n) 251-72
 - Section 16 corporations (n) 506, 511-12
 - Section 17 corporations (n) 506, 511-12
- CRIMINAL LAW**
- See also* Evidence
 - Child abuse reporting laws
 - , generally (c) 613-44
 - , Oklahoma (c) 632-36
 - Double jeopardy, drug dealer liability laws (c) 240-43
 - Drug dealer liability laws
 - See* Torts
 - Executing the mentally retarded
 - See* Constitutional Law
 - Good Samaritan laws
 - , child abuse reporting (c) 614-31
 - , duty to assist/rescue (c) 619-28
 - , effectiveness (c) 627-28
 - , generally (c) 613-33
 - , judicial application (c) 626-27
 - , parable (c) 618-19
 - , rescuer liability (c) 617-18, 622
 - , Sherrice's Law(c) 613-44
 - , statutes (c) 624-26
 - Good Samaritan laws, Oklahoma law
 - , compared to Sherrice's Law (c) 636
 - , generally (c) 632-36, 643-44
 - Insider Trading
 - See* Securities Regulation
 - Sherrice's Law
 - , analysis (c) 636-43
 - , compare to Oklahoma Law (c) 636
 - , facts (c) 614-17, 628
 - , generally (c) 614-17
 - , impact (c) 638-40
 - , improving (c) 640-41
 - , individual liberties (c) 641-43
 - , mandatory reporting (c) 637-38
- CRIMINAL PROCEDURE**
- Executing the mentally retarded
 - See* Constitutional Law
- DEBTOR AND CREDITOR**
- Chattel mortgages
 - See* Secured Transactions
- EMPLOYMENT LAW**
- Civil Rights Act of 1964, Title VII (n) 461-88
 - Employee Retirement Income Security Act (ERISA)
 - , breach of fiduciary relationship (n) 679-80
 - , damages (n) 680-82
 - , enforcement rights (n) 667-68
 - , enhanced benefit claims (n) 665
 - , history (n) 666
 - , pension plans (n) 667
 - , recovery of benefits (n) 680-82
 - , standard of review (n) 669
 - , welfare plans (n) 667
 - Employee Retirement Income Security Act (ERISA), right to jury trial
 - , case law (n) 669-77
 - , generally (n) 665, 668
 - , tenth circuit (n) 665-83
 - Employer liability for supervisory sexual harassment
 - , case law (n) 468-80
 - , Civil Rights Act of 1964, Title VII (n) 461-88
 - , development of law (n) 462-68
 - , Equal Employment Opportunity Commission (n) 464-66

- , federal preemption (n) 481-82
- , generally (n) 461-88
- , hostile environment (n) 461-62, 464-68, 470-71
- , Oklahoma Anti-Discrimination Act (n) 480-83, 486-87
- , Oklahoma common law tort action (n) 483-86
- , Oklahoma law (n) 480-88
- , private right of action (n) 482-83
- , quid pro quo (n) 461-62, 464-68, 471-74
- Equal Employment Opportunity Commission (n) 464-66

- EVIDENCE
- Scientific evidence, admissibility of
 - , causation (b) 294-96
 - , Daubert analysis (b) 291-301
 - , defining scientific knowledge (b) 292-94
 - , falsifiability (b) 296-97
 - , "fit" (b) 294-96
 - , peer review (b) 300
 - , precision (b) 297-98
 - , prejudice (b) 300
 - , relevance (b) 292-95
 - , reliability (b) 298-99
 - , validity (b) 298-99

- GOVERNMENT
- See also* Administrative Law
- Democratization
 - , generally (a) 1-5
 - , lawyer's role (a) 27-31
 - , reformist overview (a) 13-30
 - , Third World counties (a) 6-47
- Sovereign immunity
 - , federal (n) 502-03
 - , state (n) 502-03
 - , tribal (n) 489-513

- HEALTH LAW
- Emergency research (a) 566-91
- Hippocratic Oath (n) 569-73
- Informed consent
 - , higher standard for research studies (a) 575-76
 - , regulations (a) 567-68, 587
- Informed consent, waiver for emergency research
 - , ambiguities (a) 585-86
 - , community consultation provisions (a) 580-82
 - , criticisms (a) 573-86
 - , generally (a) 565-91
 - , higher standard (a) 575-76
 - , individual autonomy (a) 569-73
 - , minority communities (a) 579-80
 - , necessity of waiver (a) 568-69
 - , non-emergency investigations (a) 584-85
 - , overview (a) 567-69
 - , patient willingness (a) 576-77
 - , placebo use unethical (a) 577-78
 - , recommendations (a) 586-88
 - , regulations (a) 567-68
 - , state law (a) 582-83, 578-88
 - , surrogate consent (a) 582-83
 - , therapy v. research (a) 573-75
- Medical malpractice
 - , adverse outcome admonition (a) 56-57
 - , alternative standard (a) 78-82
 - , best judgment (a) 54-55, 69
 - , error in judgment (a) 54-55, 59-63
 - , informed consent (a) 79
 - , jury instructions (a) 54-78
 - , objective standard of care (a) 50-53, 82-84
 - , professional standard of care (a) 53-56
 - , professionally acceptable alternatives corollary (a) 57-59
 - , statutory standard of care (a) 52-53
- Patient autonomy (a) 569-73

- IMMIGRATION
- Anti-Immigration policies
 - , Asian (b) 685, 687
 - , assimilationism (b) 687
 - , California Proposition 187 (b) 686
 - , economy (b) 685-86
 - , essays (b) 685
 - , language (b) 686-88
 - , Latino (b) 685, 687
 - , nativism (b) 685
 - , plenary power (b) 688-89
 - , pluralism (b) 687
 - , race (b) 685-86
 - , standard of review (b) 688-89
 - , United States Supreme Court (b) 688

- INDIAN LAW
- Indian Reorganization Act (n) 506, 511
- Jerome Agreement of 1892 (n) 494
- Oklahoma Indian Welfare Act (n) 511
- Section 16 corporations (n) 506, 511-12
- Section 17 corporations (n) 506, 511-12
- Tribal sovereign immunity
 - , case law (n) 494-508
 - , federal immunity (n) 502-03
 - , generally (n) 489-90
 - , history (n) 490-94

- , inherent tribal sovereign immunity (n) 499-50
 - , injustice (n) 507-09
 - , judicial deference (n) 497-99
 - , justification (n) 503-07
 - , legislation (n) 492
 - , Oklahoma (n) 489-90, 493-513
 - , preemption (n) 501-02
 - , state immunity (n) 502-03
 - , waiver (n) 510-13
- JUDICIAL REVIEW**
See Constitutional Law
- LAW SCHOOL**
 Legal education
- , critics of tradition (b) 515-20
 - , curriculum (b) 516
 - , deans (b) 518
 - , feminization (b) 517
 - , law reviews (b) 518
 - , traditionalists (b) 515-20
- LEASES**
See also Oil and Gas
- Bailment lease (a) 312-13
 - Oil and gas top leases (n) 127-43
- LEGISLATION**
- 21 C.F.R. § 50.24 (a) 589
 - California Proposition 187 (b) 686
 - Chattel mortgage acts (a) 327-46
 - Civil Rights Act of 1964, Title VII (n) 461-88
 - Conn. Stat. tit. 56 ch. 1, § 9 (1821) (a) 330-31
 - Drug Dealer liability laws (c) 227-49
 - Duty to Aid the Endangered Act (c) 623
 - Employee Retirement Income Security Act (n) 274, 279, 282-86, 289, 665-83
 - Ethiopian Constitution 1994, Art. 40 (a) 31-32
 - Federal Employees Health Benefits Act (n) 273-89
 - Federal Rules of Evidence
 - , Rule 401(b) 292-93
 - , Rule 402 (b) 292-93
 - , Rule 403 (n) (c) 113, 123, 292
 - , Rule 702 (a) (b) 292, 605-06
 - , Rule 703 (b) 292
 - Financial Institutions Reform, Recovery, and Enforcement Act (n) 251-72
 - Indian Reorganization Act (n) 506, 511
 - Jerome Agreement of 1892 (n) 494
 - Kiowa Constitution (n) 494
 - Labor Management Relations Act (n) 274, 284
 - Maine, Act of Mar. 14, 1839, ch. 390, 1839 Me. Laws 557 (a) 656
 - Massachusetts, Act of Mar. 22, 1832, ch. 157, 1832 Mass. Acts 46 (a) 327
 - Minn. Stat. § 604A.01 (c) 623-26
 - New York, Act of Apr. 6, 1801, ch. 156, 1801 N.Y. Laws 390 (a) 329-30
 - Oklahoma Anti-Discrimination Act (n) 480-83, 486-87
 - Oklahoma Antitrust Reform Act (n) 661-62
 - Oklahoma Child Abuse Reporting and Prevention Act (c) 629-36
 - Oklahoma Constitution
 - , art. 2, § 6 (n) 114-15
 - , art. 2, § 7 (n) 118, 122
 - , art. 2, § 9 (a) 594
 - Oklahoma Drug Dealer Liability Act (c) 227-49
 - Oklahoma Electronic Writings and Signatures Act of 1998 (c) 412-15, 418-19, 440-55
 - Oklahoma Good Samaritan Act (c) 630-31
 - Oklahoma Indian Welfare Act (n) 511
 - 10 Okla. Stat. §§ 7103, 7104 (c) 629-36
 - 12 Okla. Stat. § 78 (n) 119-23
 - § 2017 (n) 117
 - § 2018(D) (n) 121
 - § 2102 (n) 124
 - § 2401 (n) 122
 - § 2403 (n) 123
 - 15 Okla. Stat. §§ 960-968 (c) 412-15, 418-19, 443, 445-47
 - 20 Okla. Stat. § 3001.1 (n) 119-203
 - 25 Okla. Stat. §§ 1101-1102 (n) 480
 - 40 Okla. Stat. § 171 (c) 440
 - 63 Okla. Stat. § 2-423 (c) 243
 - § 2-424 (c) 235-49
 - § 2-425 (c) 235-49
 - § 2-431 (c) 237-38
 - 76 Okla. Stat. § 5 (c) 632
 - 79 Okla. Stat. § 203 (n) 661-62
 - Securities and Exchange Act
 - , generally (a) 379-80
 - , § 10b (a) 379-80
 - Securities and Exchange Law (a) 380-81
 - Securities Fairness Act (a) 382
 - Sherman Antitrust Act (n) 645-47
 - Sherrice's Law (c) 613-43
 - Statute of Frauds (a) (c) 310-11, 317, 425-26, 428-29, 433-36 446-48
 - Uniform Commercial Code
 - , art. 2 (c) 446
 - , draft revised art. 2 (c) 447-48, 457
 - , art. 2A (c) 446
 - , draft art. 2A (c) 448
 - , draft revised art. 2A (c) 447

—, draft art. 2B (c)	447-48, 457
—, art. 3 (c)	446, 453
—, art. 4 (c)	453
—, art. 4A (c)	446
—, art. 5 (c)	446
—, art. 6 (c)	446
—, art. 7 (c)	446
—, art. 8 (c)	446
—, art. 9 (c)	446
—, generally (c)	412, 445-55
—, § 2-316 (c)	448
—, § 2B-113 (c)	447
—, § 3-103(a) (c)	453
—, § 3-501 (c)	452
—, § 4 (c)	453
—, § 4-110 (c)	452
—, § 4-209 (c)	452
Uniform Electronic Transaction Act (c)	413, 421-24, 433, 439
Uniform Probate Code	
—, § 2-205 (c)	430
—, § 3-103(a) (c)	453
—, § 3-501 (c)	452
—, § 4-103(a) (c)	453
—, § 4-110 (c)	452
—, § 4-209 (c)	452
5 U.S.C. § 706(2)(A) (n)	288
— §§ 8901-8914 (n)	275
— § 8902(m)(1) (n)	276-83, 287
— § 8912 (n)	287
12 U.S.C. § 1821(k) (n)	251-72
29 U.S.C. § 185 (n)	284
— §§ 1001-1461 (n)	284
— § 1132(a) (n)	285, 670, 673, 677-88
42 U.S.C. § 2000e (n)	462-88
— § 5106a (c)	616-17, 636
United States Constitution	
—, art. 1, § 3 (a)	218-19
—, art. 2, § 2 (a)	
163, 182, 197, 199-201, 205, 217-22, 273	
—, art. 3 (a)	542
—, Bill of Rights (a)	521-64
—, Eighth Amendment (n)	532-33, 593-611
—, Fifth Amendment (a) (n)	109, 189-91
—, Fourteenth Amendment (a) (n)	109, 118, 521
—, Seventh Amendment (n)	665-66
—, Twenty-Fifth Amendment (a)	213, 216
Vermont, Act of Nov. 5, 1938, ch. 27, 1938 Vt. Acts & Resolves 17 (a)	331
12 Vt. Stat. § 519 (c)	624-28
Wills Act of 1937 (c)	428
Wis. Stat. § 940.34 (c)	625-28

NEGLIGENCE

See also Health Law, Torts

Generally (a)	49, 82
Objective standard (a)	49-50, 82
Personal injury	
—, day in the life films (n)	124-25
—, exclusion of an injured or disfigured litigant from trial (n)	109-26

OIL AND GAS

Champerty and maintenance (n)	136, 139-40
Production defined (n)	136-37
Take or pay gas contracts	
—, cooperative venture reasoning (n)	151-52
—, generally (n)	145-46
—, history (n)	146-52
—, judicial analysis (n)	152-61
—, plain terms reasoning (n)	148-51
Top lease	
—, cessation of production clause (n)	133, 136-38
—, common-lessee top lease (n)	128-29
—, divergent-lessee top lease (n)	128-29
—, generally (n)	127-29
—, lessees (n)	141
—, Oklahoma case law (n)	129-43
—, slander of title (n)	134-35, 138-39
—, "subject to" language (n)	140-41
—, tortious interference with contract (n)	135-36
—, validity of top lease (n)	129-31

PRISONS AND PRISONERS

Executing the mentally retarded

See Constitutional Law

Presidential pardons

See Constitutional Law

PROFESSIONS AND OCCUPATIONS

See also Attorneys

Professionalism standards (a)	85-86
Real estate brokers/agents (a)	
—, designated agency (a)	89-90, 95
—, disclosures (a)	95-98, 105
—, dual agency (a)	89, 92-98, 100
—, exclusive agency (a)	87-89, 91-92, 98
—, fiduciary duty (a)	85, 87, 93, 95-97
—, generally (a)	85-87
—, nonagent brokerage (a)	90-91, 97-107
—, vicarious liability (a)	91-92

REMEDIES

Civil liability for drug dealers

See Torts

Civil liability for insider trading (a) 399-400

ERISA (n) 670-71, 680-82

SECURED TRANSACTIONS

Chattel mortgages

—, abolish (a) 341-42

—, absolute conditional rule (a) 311, 315-27

—, alternative dispute theory (a) 324-26

—, alternative security device theory (a) 323-24

—, authorization approach (a) 311-27

—, bailment lease (a) 312-12

—, chattel mortgage acts (a) 327-46

—, Connecticut (a) 347-76

—, delivery requirement (a) 316-18

—, filing requirement (a) 346-74

—, fraudulent theory (a) 319-22

—, generally (a) 305-11

—, Gilmerian pronouncement (a) 312

—, judicial opinions (a) 318-19, 338-403

—, legislative history (a) 332-38

—, Maine (a) 366-76

—, Massachusetts (a) 347-76

—, New Hampshire (a) 347-76

—, New Jersey (a) 369, 372-76

—, New York (a) 347-76

—, northeastern United States (a) 308-73

—, old rule theory (a) 326-27

—, Pennsylvania (a) 347-76

—, preserve (a) 343-46

—, rebuttable rule, alternatives (a) 341-46

—, recent development theory (a) 319-21

—, Rhode Island (a) 347-48, 352-55

—, Statute of Frauds (a) 310-11, 317

—, statutes (a) 327-38

—, textile machinery (a) 303-79

—, Vermont (a) 347-48, 366-67

History (a) 303-76

SECURITIES REGULATION

Canada (a) 377-79, 384-88, 400-05, 407-09

Insider trading

—, Canada (a) 377-79, 384-88, 400-05, 407-09

—, disclosures (a) 405-09

—, economics (a) 397-99

—, generally (a) 377-79

—, Japan (a) 377-86, 400-09

—, market efficiencies (a) 394-97

—, morality of insider trading (a) 377-409

—, shareholders (a) 401-09

—, United States (a) 377-80, 385-86, 388-409

Japan (a) 377-86, 400-09

Securities and Exchange Act of 1934 (a) 379

Securities and exchange law (a) 380-81

United States (a) 377-80, 385-86, 388-409

TORTS

See also Negligence, Health Law

Alternative liability

—, drug dealer liability laws (c) 246-47

Dram shop liability (c) 231-33

Drug dealer liability laws

—, alternative liability (c) 246-47

—, alternatives (c) 229-35

—, common law bar to recovery (c) 228-29

—, criticisms (c) 238-44

—, defenses (c) 237-38

—, double jeopardy (c) 240-43

—, due process rights (c) 238-40

—, generally (c) 227-28, 234-35

—, gram-shop liability (c) 231-34

—, judicial sanction/restitution (c) 230-31

—, market share liability (c) 244-46

—, Oklahoma Drug Dealer Liability Act (c)

—, statutes (c) 227-49

—, tort principles (c) 243-44

Market share liability

—, drug dealer liability laws (c) 244-46

Restatement (Second) of Torts (a) 68

Slander of title, oil and gas top lease (n)

134-35, 138-39

Tribal sovereign immunity

See Indian Law

Tortious interference with contract, oil and gas

top lease (n) 135-36

Vicarious liability (a) 91-92

