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Richard W. Ervin Eminent Scholar Chair

PUBLICATIONS

LAW REVIEW AND LAW JOURNAL ARTICLES

Dedication: Chesterfield Smith, 15 UNIVERSITY OF FLORIDA JOURNAL OF LAW AND PUBLIC POLICY 1 (Fall 2003).

Son of Snyder: Municipal Annexations and Quasi-Judicial Proceedings, 1 FLORIDA COASTAL LAW JOURNAL 133 (Summer 1999) (with Michael L. Buckner).¹

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¹ *Cited in*: Kristen M. O'Connor, Losing Ground: Seminole and the Annexation Power of Municipalities in Oklahoma, 58 OKLA. L. REV. 527 (2005); Alison Yurko, A Practical Perspective About Annexation in Florida – Making Sense of Florida Statutes Chapters 164 and 171 in 2003 and Beyond, 32 STETSON L. REV. 517 (2003).

² *Cited in*: J. Nelson Happy & Samuel Pyeatt Menefee, Genesis!: Scriptural Citation and the Lawyer's Bible Project, 9 Regent U. L. REV. 89, 140 (1997).

³ *Cited in*: Blue Cross & Blue Shield United of Wisconsin v. Marshfield Clinic, 65 F.3d 1406 (7th Cir. 1995) (Posner, J.); Reza Dibadj, Saving Antitrust, 75 U. COLO. L. REV. 745 (2004); Elizabeth A. Weeks, The New Economic Credentialing: Protecting Hospitals From Competition By Medical Staff Members, 36 J. HEALTH L. 247 (2003); Seungwoo Son, Selective Refusals to Sell Patented Goods: The Relationship Between Patent Rights and Antitrust Law, 2002 UNIV. ILL. J. OF LAW, TECH. & POL'Y 109 (Spring 2002); Sandra DiFranco, Denying Medical Staff Privileges Based On Economic Credentials, 15 J.L. & HEALTH 247 (2000-01); Norman W. Hawker, Open Windows: The Essential Facilities Doctrine and Microsoft, 25 OHIO N.U.L. REV. 115 (1999); Christopher R. Leslie, Unilaterally Imposed Tying Arrangements and Antitrust's Concerted Action Requirement, 60 OHIO ST. L.J. 1773 (1999); Soma, et. al., The Essential Facilities Doctrine in the Deregulated Telecommunications Industry, 13 BERKELEY TECH. L.J. 565 (1998); Christopher M. Seelen, The Essential Facilities Doctrine: What Does It Mean To Be Essential?, 80 MARQ. L. REV. 1117 (1997); and Elizabeth A. Nowicki, Competition in the Local Telecommunications Market: Legislate or Litigate?, 9 HARV. J.L. & TECH. 353 (1996); *see* 1 CALLMANN ON UNFAIR COMP., TRADEMARKS & MONOPOLIES, § 4:4 (“Exemptions from the antitrust laws”) & § 4:21 (“Violation of the antitrust laws – Section 2 of the Sherman Act”), (4th Ed. 2004 & Supps. 2005 & 2006); Amicus Brief of UPS, Inc., Honeywell Int'l, Inc., VISA USA, Inc., & Eastman Kodak Co., 2003 WL 2125425 at 20 (U.S. 2003), in Verizon Comm., Inc. v. Law Offices of Curtis v. Trinko, 540 U.S. 398 (2004).

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"In the Ordinary Course of Business": The Legal Limits of Workplace Wiretapping, 10 HASTINGS JOURNAL OF COMMUNICATIONS & ENTERTAINMENT LAW 901 (1988) (lead article with Martha Barnett).⁷

⁴ *Cited in*: Gerard J. Clark, The Two Faces of Multi-Jurisdictional Practice, 29 N. KY. L. REV. 251 (2002); Patrick John McGinley, Beyond Health Care Reform: Reconsidering Certificate of Need Laws in a "Managed Competition" System, 23 FLA. ST. U.L. REV. 141 (1995); and Dean M. Harris, State Action Immunity From Antitrust Law For Public Hospitals: The Hidden Time Bomb For Health Care Reform, 44 U. KAN. L. REV. 459 (1996); Brief in Opposition, 1999 WL 33639416 at 10, in Hosp Serv. Dist. No. 1 of Tangipahoa Parish v. Surgical Care Center of Hammond, L.C., *cert. denied*, 528 U.S. 964 (1999).

⁵ *Cited in*: Todd A. Rodriguez, Physician Employment Agreements: New Realities for Old Relationships, in HEALTH LAW HANDBOOK, § 6:7 (2001); Jeffrey D. Migit, The Supreme Court of Texas Refuses To Adopt The "Loss of Chance" Doctrine: *Kramer v. Lewisville Memorial Hospital*, 35 S. TEX. L. REV. 365 (1994); W. Kip Viscusi, Toward A Diminished Role For Tort Liability: Social Insurance, Government Regulation, and Contemporary Risks to Health and Safety, 6 YALE J. REG. 65 (1989); David L. Sieradzki, Throwing Out The Baby With The Bathwater: Reform In The System For Compensating Obstetric Accidents, 7 YALE L. & POL'Y REV. (1989); and four other companion articles in Volume 5 of the Yale Journal of Regulation.

⁶ *Cited in*: New Jersey American, Inc. v. Allied Corp., 875 F.2d 58, 62 (3rd Cir. 1989) (Becker, J.); LaGuardia Associates v. Holiday Hospitality Franchising, Inc., 92 F. Supp. 2d 119, 124 (E.D.N.Y. 2000) (Weinstein, J.); Andy C. M. Chen & Keith N. Hylton, Procompetitive Theories of Vertical Control, 50 HASTINGS L.J. 573 (1999); Thomas J. Chinonis, Implied Covenant of Good Faith: A Two-Way Street in Franchising, 11 DEPAUL BUS. L.J. 229 (1998); Byron E. Fox & Henry C. Su, Franchise Regulation - Solutions In Search Of Problems?, 20 OKLAHOMA CITY U. L. REV. 241 (1995); Boyd Allan Byers, Making A Case For Federal Regulation of Franchise Terminations – A Return-of-Equity Approach, 19 J. CORP. L. 607 (1994); and Roger D. Blair & Amanda Kay Esquibel, Yardstick Damages In Lost Profit Cases: An Econometric Approach, 72 DENVER L. REV. 113 (1994).

⁷ *Cited in*: Ray Lewis, Employee E-Mail Privacy Still Unemployed: What The United States Can Learn From The United Kingdom, 67 LA. L. REV. 959 (2007); Hon. James Carr, Supervisory Monitoring, 1 LAW OF ELECTRONIC MONITORING § 3:42 (2006); Theresa L. Kilgore, Cause of Action Under 18 USC § 2520 for Unlawful Interception, Disclosure, or Use of a Communication by a Nongovernmental Defendant, 1 CAUSES OF ACTION 2D 499 (2006); Peter J. Isajiw, Workplace E-Mail Privacy Concerns: Balancing the Personal Dignity of Employees With The Proprietary Interests of Employers, 20 TEMPLE ENV. L. & TECH. J. 73 (2001); Patrick Boyd, Tipping the Balance of Power: Employer Intrusion On Employee Privacy Through Technological Innovation, 14 St. JOHN'S J. OF LEGAL COMMENTARY 181 (1999); Alexander I. Rodriguez, All Bark, No Byte: Employee E-Mail Privacy Rights in the Private Sector Workplace, 47 EMORY L.J. 1439 (1998); Jared D. Beeson, Cyberprivacy on the Corporate Intranet: Does the Law Allow Private-Sector Employers to Read Their Employees' E-Mail?, 20 U. HAWAII L. REV. 165 (1998); Matthew W. Finkin, Employee Privacy, American Values, and the Law, 72 CHICAGO-KENT L. REV. 221 (1996); Paul E. Hash & Christina M. Ibrahim, E-Mail, Electronic Monitoring, and Employee Privacy, 37 S. TEX. L. REV.

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⁸ *Cited in:* Susan Alice Moore, Florida Bar v. Went For It, Inc.: Refining the Constitutional Standard for Evaluating State Restrictions on Legal Advertising, 45 CATHOLIC U.L. REV. 1351 (1996); Brian G. Gilpin, Attorney Advertising and Solicitation on the Internet: Complying with Ethics Regulations and Netiquette, 13 JOHN MARSHALL J. COMPUTER & INFO. LAW 697 (1995); Linda Morton, Finding a Suitable Lawyer: Why Consumers Can't Always Get What They Want and What the Legal Profession Should Do About It, 25 U.C. DAVIS L. REV. 283 (1992); and Linda Sorenson Ewald, Content Regulation of Lawyer Advertising: An Era of Change, 3 GEO. J. LEGAL ETHICS 429 (1990); and Sidford, Beyond the Brochure: The Library's Role in Marketing the Law Firm of the Nineties, 278 PLI/PAT 399 (1989); Brief of Appellee, 1988 WL 1025893 at 35 (1988), in Oring v. State Bar of Calif., *prob. juris. noted*, 487 U.S. 1232 (1988), *dismissed*, 488 U.S. 590 (1989).

⁹ Each bar journal article was a feature article in *The Florida Bar Journal* selected by anonymous reviewers under blind submission. "Lead" articles were published as the first article in that particular issue.

¹⁰ *Cited in:* Terrence Leas, The Course Syllabus: Legal Status and Implications for Practitioners, 177 WEST'S EDUC. LAW. REPORTER 771 (Aug. 14, 2003); K.B. Melear, Judicial Intervention in Postsecondary Academic Decisions: The Standards of Arbitrary and Capricious Conduct, 177 WEST'S EDUC. LAW. REPORTER 1 (July 31, 2003).

¹¹ *Cited in:* Citibank Federal Sav. Bank v. Sandel, 766 So. 2d 302, 304 (Fla. 4th DCA 2000); Matthew D. Klaiber, A Uniform Fee-Setting System For Calculating Court-Awarded Attorneys' Fees: Combining Ex Ante Rates With a Multifactor Lodestar Method and a Performance-Based Mathematical Model, 66 MD. L. REV. 228 (2006).

¹² *Cited in:* Christopher R. McFadden, Judicial Independence, Age-Based BFOQs, and the Perils of Mandatory Retirement Policies For Appointed State Judges, 52 S. CAR. L. REV. 81 (2000).

¹³ *Cited in:* Shipley v. Belleair Group, Inc., 759 So. 2d 28, 30 (Fla. 2nd DCA 2000); W. Hampton Keen, Costs, Fees and Interest, in FLORIDA CIVIL TRIAL PRACTICE (The Florida Bar (2001-2005); David P.

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¹⁶ *Cited in*: Sonja Larsen, Public Franchises and Licenses, in 36 FLA. JUR. 2D MONOPOLIES & RESTRAINTS OF TRADE § 5 (2002); and James Salzman, Sustainable Consumption and the Law, 27 ENV. L. 1243 (1997).

¹⁷ *Cited in*: Larry A. DiMatteo & Don Wiesner, Academic Honor Codes: A Legal and Ethical Analysis, 19 S. ILL. U. L.J. 49 (1994).

¹⁸ *Cited in*: Gerald Kogan & Robert Craig Waters, The Operation and Jurisdiction of the Florida Supreme Court, 18 NOVA L. REV. 1151 (1994), *updated and republished*, 29 NOVA L. REV. 431 (2005).

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¹⁹ *Cited in:* Karen M. Cledes, Lovell v. Poway Unified School District: An Elementary Lesson Against Judicial Intervention in School Administrator Disciplinary Discretion, 33 CAL. WESTERN L. REV. 219 (1997).

²⁰ *Cited in:* Anne E. Knickerbocker, Adjudications and Adjudicatory Proceedings, in 2 FLA. JUR. 2D ADMINISTRATIVE LAW § 241 (2004); Anne E. Knickerbocker, Attorneys’ Fees and Costs, in 2 FLA. JUR. 2D ADMINISTRATIVE LAW § 328 (2004); and Seann M. Frazier, Award of Attorneys’ Fees in Administrative Litigation, 69 FLA. B.J. 74 (Aug. 1995).

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Civil Liberties in Schools, Materials and Lecturer for CLE Seminar (1998) (co-authored with Brooks Rathet).

Immigration Economics, Materials and Lecturer for CLE Seminar (1995).

Antitrust and Franchising: Vertical Restraints, in QUARTERLY REPORT: THE FLORIDA BAR BUSINESS LAW SECTION, (April 1995).

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Antitrust and Medical Peer Review, in PHYSICIAN COMPETITION ISSUES IN THE 1990S, Florida Bar CLE Program, Lecturer (1991).

Analysis of a Proposed Constitutional Cap on Non-Economic Damages (1988) (UF Press) (with Roger Blair).

Editor, Holland & Knight Franchise Law Newsletter (1994-1996) and *Contributor, Appellate Practice Group*. Prepared and edited articles for periodic newsletter on recent franchise law developments and prepared articles for appellate practice newsletter.²¹

²¹ One article, Vertical Price Fixing and the Colgate Doctrine, was cited in Brian L. Beirne & Michael Tucker, Reimportation of Canadian Prescription Drugs into the United States: Regulatory, Economic, & Policy Implications, 10 MICH. ST. U. J. MED. & L. 491, (2006).

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