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**Books:**

PRIVILEGE OR PUNISH? CRIMINAL JUSTICE AND THE CHALLENGE OF FAMILY TIES (Oxford University Press, 2009) (with Jennifer M. Collins and Ethan J. Leib).

**Law Review and Journal Articles:**

*Rethinking Criminal Justice and Family Status*, 119 YALE LAW JOURNAL \_\_\_\_ (forthcoming 2010) (with Ethan J. Leib & Jennifer M. Collins).

*Executing Retributivism: Panetti and the Future of the Eighth Amendment*, 103 NORTHWESTERN UNIVERSITY LAW REVIEW \_\_\_\_ (forthcoming 2009).

*Retributive Damages as Intermediate Public Sanctions: A Synopsis*, THE LEGAL WORKSHOP (May 2009) (available at <http://legalworkshop.org/2009/05/12>)

*How Should Punitive Damages Work?* 157 UNIVERSITY OF PENNSYLVANIA LAW REVIEW 1383 (2009).

*Retributive Damages: A Theory of Punitive Damages as Intermediate Sanction*, 94 CORNELL LAW REVIEW 239 (2009).

*Punishing Family Status*, 88 BOSTON UNIVERSITY LAW REVIEW 1327 (2008) (with Ethan J. Leib & Jennifer M. Collins).

*Voluntarism, Vulnerability and Criminal Law: A Response to Professors Hill and O'Hear*, 88 BOSTON UNIVERSITY LAW REVIEW 1449 (2008) (with Ethan J. Leib & Jennifer M. Collins).

*Wrong Turns on the Road to Alternative Sanctions: Reflections on the Future of Shaming Punishments and Restorative Justice*, 85 TEXAS LAW REVIEW 1385 (2007).

*Criminal Justice and the Challenge of Family Ties*, 2007 ILLINOIS LAW REVIEW 1147 (with Jennifer M. Collins and Ethan J. Leib).

*Connectedness and Its Discontents: The Difficulties of Federalism and Criminal Law*, 4 OHIO STATE JOURNAL OF CRIMINAL LAW 573 (2007).

*Connectedness and Its Discontents*, 154 UNIVERSITY OF PENNSYLVANIA LAW REVIEW PENNUMBRA 38 (2006) (available at <http://www.pennumbra.com/responses/11-2006/Markel.pdf>)

*State, Be Not Proud: A Retributivist Defense of the Commutation of Death Row and the Abolition of Execution*, 40 HARVARD CIVIL RIGHTS - CIVIL LIBERTIES LAW REVIEW 407 (2005).

*Against Mercy*, 88 MINNESOTA LAW REVIEW 1421 (2004)

*Are Shaming Punishments Beautifully Retributive? Retributivism and the Implications for Alternative Sanctions Debate*, 54 VANDERBILT LAW REVIEW 2157 (2001).

*Can Intellectual Property Law Regulate Behavior? A “Modest Proposal” for Weakening Unclean Hands*, 113 HARVARD LAW REVIEW 1503 (2000).

*The Justice of Amnesty? Towards a Theory of Retributivism in Recovering States*, 49 UNIVERSITY OF TORONTO LAW JOURNAL 389 (1999).

### **Book Reviews:**

Review Essay, 10 EUROPEAN JOURNAL OF INTERNATIONAL LAW 200 (1999) (reviewing ALFRED P. RUBIN, *ETHICS AND AUTHORITY IN INTERNATIONAL LAW* (Cambridge Univ. Pr., 1997)).

### **Other Publications:**

Review, *The Indispensable Berman on Booker*, PRAWFSBLAWG, June 26, 2006, [http://prawfsblawg.blogs.com/prawfsblawg/2006/06/the\\_indispensab.html](http://prawfsblawg.blogs.com/prawfsblawg/2006/06/the_indispensab.html) (cited as persuasive authority in *U.S. v. Kandirakis*, 441 F. Supp. 2d 282 (D. Mass. 2006))

Essay, *Redemption-Based Clemency for Stanley “Tookie” Williams: The Right Action for the Wrong Reason*, FINDLAW, Dec. 9, 2005, <http://tedandgiselle.com/markel/2005-12-09-FindLaw.pdf>

Essay, *Innocents Lost: Who Needs David Gale When You’ve Got Ruben Cantu*, SLATE, Nov. 29 2005, <http://tedandgiselle.com/markel/Markel%20on%20Cantu%20in%20Slate.pdf> (reprinted in part in DALLAS MORNING NEWS, Dec. 4, 2005.)

Book Review, *Summers’s Hailstorm*, THE JERUSALEM POST, Sept. 8, 2005 (reviewing Richard Bradley, *HARVARD RULES*, and Ross Gregory Douthat, *PRIVILEGE*.)

Book Review, *A Woman of Valor*, THE JERUSALEM POST, Mar. 18, 2005 (reviewing Deborah E. Lipstadt, *HISTORY ON TRIAL: MY DAY IN COURT WITH DAVID IRVING*).

Book Review, *The Dying Art of Advocacy*, THE JERUSALEM POST, Jan. 23, 2005 (reviewing Joel Seidemann, *IN THE INTEREST OF JUSTICE: GREAT OPENING AND CLOSING ARGUMENTS OF THE LAST 100 YEARS*.)

Editorial, *Humiliation is Simply Wrong*, USA Today, Sept. 1, 2004.

Essay, *Dirty Shame: The Ninth Circuit’s Dangerous Endorsement of Shaming Punishments*, THE NEW REPUBLIC, Aug. 17, 2004.

Op-ed, *Granting Patents Can Foster Crime*, NATIONAL LAW JOURNAL, Sept. 25, 2000.

Review, *The Impertinence of Being Earnest*, THE GLOBE AND MAIL, Oct. 2, 1999.

Recent Case, *United States v. DeZarn*, 157 F.3d 1042 (6<sup>th</sup> Cir. 1998), 112 HARVARD LAW REVIEW 1783 (1999).