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Books:

What Might Retributive Justice Be?, in *RETRIBUTIVISM: ESSAYS ON THEORY AND POLICY* (Mark White, editor) (Oxford University Press 2011)

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:

[*Beyond Experience: Getting Retributive Justice Right*](#) (with Chad Flanders & David Gray), 99 CALIFORNIA LAW REVIEW 605 (2011).

[*Retributive Justice and the Demands of Democratic Citizenship*](#), 1 VIRGINIA JOURNAL OF CRIMINAL LAW__ (forthcoming 2012) (invited paper).

[*Revisiting the Taxation of Punitive Damages*](#) (with Gregg D. Polsky), 97 VIRGINIA LAW REVIEW IN BRIEF 73 (2011).

[*A Judge for Justice*](#), 43 ARIZONA STATE LAW JOURNAL 57 (2011).

[*Overcoming Tradeoffs in the Taxation of Punitive Damages*](#), 88 WASHINGTON UNIVERSITY LAW REVIEW 609 (2011).

[*Taxing Punitive Damages*](#), 96 VIRGINIA LAW REVIEW 1295 (2010) (with Gregg Polsky).

[*Bentham on Stilts? The Bare Relevance of Subjectivity to Retributive Justice*](#), 98 CALIFORNIA LAW REVIEW 907 (2010) (with Chad Flanders).

[*Punitive Damages and Private Ordering Fetishism*](#), 158 UNIVERSITY OF PENNSYLVANIA PENNNUMBRA 283 (2010).

[*Rethinking Criminal Justice and Family Status*](#), 119 YALE LAW JOURNAL 1864 (2010) (with Ethan J. Leib & Jennifer M. Collins).

[*\(When\) Should Family Status Matter in the Criminal Justice System?*](#), 13 NEW CRIMINAL LAW REVIEW 151 (2010).

[*May Minors Be Retributively Punished after Panetti \(and Graham\)?*](#), 23 FEDERAL SENTENCING REPORTER 62(2010)

[*Executing Retributivism: Panetti and the Future of the Eighth Amendment*](#), 103 NORTHWESTERN UNIVERSITY LAW REVIEW 1163 (2009).

[*Retributive Damages as Intermediate Public Sanctions: A Synopsis*](#), THE LEGAL WORKSHOP (May 12, 2009)

[*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).

[*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 (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 (6th Cir. 1998), 112 HARVARD LAW REVIEW 1783 (1999).