

Tulsa Law Review

Volume 33
Number 2 *Legal Issues for Nonprofits*
Symposium

Winter 1997

From The Editors

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Recommended Citation

From The Editors, 33 Tulsa L. J. xix (2013).

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FROM THE EDITORS . . .

We dedicate our second issue to Bernard Schwartz, Chapman Distinguished Professor of Law at the University of Tulsa College of Law. Professor Schwartz died December 23, 1997. Although our last issue will be dedicated to Professor Schwartz's scholarship, we offer this issue in memory of his contributions to the Tulsa Law Journal over the past five years. He graciously gave us permission to publish the remarks he made to the Supreme Court Historical Society at the United States Supreme Court Chamber on November 5, 1997. He entitled these remarks *Chief Justice Earl Warren: Super Chief in Action*. His remarks pay tribute to Chief Justice Warren but also are a tribute to history and the role both Super Chief Warren and Professor Schwartz have played in the development of the law in the United States. We will miss Professor Schwartz very much.

The College of Law, in cooperation with the Center for Nonprofit Management presented a symposium October 28, 1997, entitled *Legal Issues for Nonprofits*. We include two papers from this timely presentation. Hannibal Johnson contributes *Getting on Board: Legal, Ethical, and Practical Considerations for Nonprofit Board Members*. Professor Johnson provides practical advice and guidance for directors on nonprofit organizations on topics such as legal responsibilities of the board and board members, guidelines for minimizing organization liability, and how to identify and deal with potential conflicts of interest. Professor Johnson's discussion of aspects of the Volunteer Protection Act of 1997 and his question and answer format make his paper interesting as well as easy to read.

William C. Kellough offers *Affiliations, Sales, and Conversions Involving Non-Profit and For-Profit Healthcare Organizations in Oklahoma*. Mr. Kellough discusses four models of legal affiliation: joint venture by contractual relationship, strategic alliances, merger, and consolidations. He makes some provocative suggestions for changing Oklahoma's regulatory environment in order to improve healthcare delivery. Mr. Kellough discusses tax advantages of various transactions, including various IRS positions regarding the structure of those transactions.

Professor Charles Adams discusses various developments in Oklahoma civil procedure. Our readers look forward to what has become Professor Adams' annual *Recent Developments in Oklahoma Civil Procedure*. This year's installment includes discussion of giving notice of the filing of the judgment to the parties to the action and the resolution of this problem with a series of amendments to the Judgment Act. Professor Adams discusses significant developments in case law, including discovery of a defendant's financial records when the plaintiff is seeking punitive damages. He explores appellate decisions including personal jurisdiction, suits against unincorporated associations, interpleader, and claim and issue preclusion. Professor Adams also discusses the adoption of the public domain citation system. Oklahoma is the first state to adopt this method of citation for its entire body of case law. For additional information see the Oklahoma Supreme Court Network web-site at "www.ocsn.net".

Michael Abramowicz contributes *Beyond Balanced Budgets, Fourteenth Amendment Style*. Mr. Abramowicz argues that a Fiscal Commitments Amendment may be an economically sound alternative to a Balanced Budget Amendment. To further his argument, Mr. Abramowicz raises a historical puzzle buried beneath Section 4 of the Fourteenth Amendment. He discusses the Public Debt Clause from an originalist perspective, but suggests that the principle underlying the Clause could shed some light on the contemporary movement for budget reform.

Nelson Ebaugh offers an analysis of racial gerrymandering in his note *Refining the Racial Gerrymandering Claim: Bush v. Vera*. Mr. Ebaugh discusses the development of the racial gerrymander claim and analyzes the most recent Court decisions and their impact on the *Voting Rights Act*. Mr. Ebaugh concludes that the Court's recent decision in *Bush v. Vera* reveals enough votes to protect the progress made by the Voting Rights Act.

Tara Van Ausdall contributes *O'Connor v. Consolidated Coin Caterers Corp.: Can an ADEA Plaintiff Ever Win?* Ms. Van Ausdall's note raises several questions about the Court's seemingly simple holding that an employer who replaces an older worker because of age, with another younger worker in the same protected class, may violate the ADEA. For example, do courts look at a replacement worker being younger or being substantially younger than the terminated employee or prospective applicant? Also, is proof of a replacement necessary in determining if a plaintiff has a prima facie case? Ms. Van Ausdall raises these questions and more and includes an analysis of the new interpretation of the fourth prong of the *McDonnell Douglas* test.

Monica L. Goodman comments on *Title VII and the Federal Arbitration Act*. Ms. Goodman analyzes the Court cases dealing with arbitration of statutory claims in employment cases. She distinguishes and reconciles *Alexander v. Gardner Denver Co.* and *Gilmer v. Interstate/Johnson Lane Corp.* with the legislative intent behind Title VII claims. Ms. Goodman also discusses the Federal Arbitration Act and mandatory arbitration, concluding that Title VII claims should be subject to mandatory arbitration as long as the claimant "knowingly" enters the arbitration agreement.

Brenda Kimery contributes *Tort Liability of Nonprofit Corporations and their Volunteers, Directors, and Officers: Focus on Oklahoma*. Ms. Kimery addresses the issues of personal and vicarious liability in the context of nonprofit organizations. She discusses various methods for controlling tort liability in general, and then focuses on applications to Oklahoma. Ms. Kimery concludes by offering several recommendations for managing the risk involved when utilizing volunteers.

Finally, we invite your comments and suggestions on this issue or any other issue. We also invite you to visit our web-site at www.utulsa.edu/law/tlj. We would like to thank our editors, staff and candidates who worked very hard to bring this issue to our readers. Thanks so much for your support.

John J. Baroni and Telisa Webb Schelin