

Journal Watch
April – May, 2010

- ADA** “Baby Boomers are Turning Grey: The Americans With Disabilities Act and aging Americans.” 19 **Business Law Today** 11 (May/June 2010, No. 5).
- AGENCY OVERSIGHT** “Disclosing ‘Political’ Oversight of Agency Decision Making.” 108 **Michigan Law Review** 1127 (May 2010, No. 7).
- ANTITRUST** “Bad Judges: How Antitrust Went Wrong Under Reagan and Followers.” 34 **Antitrust Law & Economics Review** 41 (2009, No. 4).
- APPEALS** “Clarity as the Last Resort? Why Federal Rule of Appellate Procedure 4 Should and Could Stipulate Which Judgments are ‘Final’” 70 **Ohio State Law Journal** 1481 (2009, No. 6).
- ARBITRATION** “Waiver of Privilege under Federal Evidence Rule 502 and Arbitration Proceedings.” 65 **Dispute Resolution Journal** 24 (February-April 2010, No. 1).
- “Revising the Revision: Procedural Alternatives to the Arbitration Fairness Act.” 57 **UCLA Law Review** 1095 (April 2010, No. 4).
- ATTORNEY FEES** “The IRS Will Absolutely, Positively Not Pay Your Attorneys’ Fees (or Will They?).” 84 **Florida State Bar Journal** 28 (May 2010, No. 5).
- “Understanding Retainers and Flat Fees.” 34 **The Journal of the Legal Professional** 113 (Fall 2009, No. 1).
- CIVIL PROCEDURE** “The New Rule 12(b)(6): *Twombly*, *Iqbal*, and the Paradox of Pleading.” 62 **Stanford Law Review** 905 (March 2010, No. 3).
- CONSTITUTIONAL LAW** “Consistently Unconstitutional: Examining Ohio’s Ballot Access Laws.” 38 **Capital University Law Review** 109 (Fall 2009, No. 1).
- “A Fourth Amendment for the Poor Alone: Subconstitutional Status and the Myth of the Inviolable Home.” 85 **Indiana Law Journal** 355 (Spring 2010, No. 2).

“Constitutionality of Cyberbullying Laws: Keeping the Online Playground Safe for Both Teens and Free Speech.” 63 **Vanderbilt Law Review** 845 (April 2010, No. 3).

“Digitizing the Fourth Amendment: Limiting the Private Search Exception in Computer Investigations.” 96 **Virginia Law Review** 677 (May 2010, No. 3).

CONSTRUCTION LAW “The Cumulative Impact Claim: Where Do We Stand in 2010.” 77 **Defense Counsel Journal** 206 (April 2010, No. 2).

CONSUMER LAW “DSHEA’s Failure: Why a Proactive Approach to Dietary Supplement Regulation is Needed to Effectively Protect Consumers.” 2010 **University of Illinois Law Review** 1045 (No. 3).

COPYRIGHT LAW “A Dangerous Undertaking Indeed: Juvenile Humor, Raunchy Jokes, Obscene Materials and Bad Taste in Copyright.” 98 **Kentucky Law Journal** 517 (2009-2010, No. 3).

COURTS “*Nothing but Trouble*: The Ohio Legislature’s Failed Attempt to Abolish Mayor’s Courts.” 35 **University of Dayton Law Review** 223 (Winter 2010, No. 2).

CRIMINAL SENTENCING “The Use of Parol Evidence Interpretation of Plea Agreements.” 110 **Columbia Law Review** 840 (April 2010, No. 3).

DISABILITY DISCRIMINATION “Your Insurance Does Not Cover That: Disability-Based Discrimination Where it Hurts the Most.” 78 **George Washington Law Review** 636 (April 2010, No. 3).

DISCOVERY “Coercive Discovery and the First Amendment Towards a Heightened Discoverability Standard.” 57 **UCLA Law Review** 841 (February 2010, No. 3).

“Discovery Audits: Model Rule 38.(d) and the Prosecutor’s Duty to Disclose.” 119 **Yale Law Journal** 1339 (April 2010, No. 6).

DUE PROCESS “The Good, the Bad and the Ugly: How the Due Process Clause May Limit Comprehensive Health Care Reform.” 77 **Tennessee Law Review** 413 (Winter 2010, No. 2).

- ELDER CARE** “Advance Health Care Directives: Why Standard Forms Don’t do the Trick.” 149 **Trusts & Estates** 34 (May 2010, No. 5).
- ELDER LAW** “Order at the End of Life: Establishing a Clear and Fair Mechanism for the Resolution of Futility Disputes.” 63 **Vanderbilt Law Review** 491 (March 2010, No. 2).
- EMPLOYMENT LAW** “Carpe Diem: Privacy Protection in Employment Act.” 43 **Akron Law Review** 331 (2010, No. 2).
- ESTATE TAX** “IRS Letter Ruling Approves Estate Tax Planning Using Domestic Asset Protection Trusts.” 112 **Journal of Taxation** 213 (April 2010, No. 4).
- EXPERT WITNESS** “Expert Preparation: Use this step-by-step Plan to Show Your Witnesses the Way.” 46 **Trial** 16 (May 2010, No. 5).
- FAMILY LAW** “It’s Nearly Always About the House.” 32 **Family Advocate** 8 (Spring 2010, No. 4).
- “A Review of the Year in Family Law: Looking at Interjurisdictional Recognition.” 43 **Family Law Quarterly** 923 (Winter 2010, No. 4).
- “International Human Rights Law, Co-Parent Adoption, and the Recognition of Gay and Lesbian Families.” 55 **Loyola Law Review** 791 (Winter 2009, No. 4).
- FMLA** “FMLA Boot Camp: Regulatory and Case Law Developments Under the Family and Medical Leave Act.” 61 **Labor Law Journal** 37 (Spring 2010, No. 1).
- HIPPA** “HIPPA Liability.” 30 **California Lawyer** 40 (May 2010, No. 5).
- HUMAN RIGHTS IN THE U.S.** “The State of Hunger in 2009.” 37 **Human Rights** 12 (Winter 2010, No. 1).
- IDEA** “When Close Enough Doesn’t Cut it: Why Courts Want to Steer Clear of Determining What is – and What is Not – Material in a Child’s Individual Education Program.” 41 **University of Toledo Law Review** 375 (Winter 2010, No. 2).
- INSURANCE LAW** “At the Crossroads of the Intersection of Bankruptcy and Insurance.” 52 **For the Defense** 26 (May 2010, No. 5).

- INTERNATIONAL LAW** “What Good is Protection Order Anyway? International Law May Hold the Answer.” 2 **Bar Journal of the Cleveland Metropolitan Bar Association** 36 (April 2010, No. 9).
- “Unwitting Sanctions: Understanding Anti-Bribery Legislation as Economic Sanctions Against Emerging Markets.” 62 **Florida Law Review** 351 (April 2010, No. 2).
- JUDGES** “Suggestions for American Judges: Ten Books that Merit Reading.” 10 **The Journal of Appellate Practice and Process** 347 (Fall 2009, No 2).
- JUVENILE LAW** “*Blakely* and Blended Sentencing: A Constitutional Challenge to Sentencing Child ‘Criminals.’” 70 **Ohio State Law Journal** 1261 (2009, No. 5).
- LAW FIRM MARKETING** “Modern Marketing: Using New Media to Promote your Practice.” 24 **Ohio Lawyer** 8 (May/June 2010, No. 3).
- LEGAL MARKETING** “Marketing Your Practice Today: Moving Full Speed Ahead.” 36 **Law Practice** 32 (May/June 2010, No. 3).
- “Where Do Clients Come From? Marketing Matters for you Burgeoning Law Career.” 38 **Student Lawyer** 26 (April 2010, No. 8).
- MEDICAL MALPRACTICE** “The Anatomy of a Medical Malpractice Verdict.” 59 **Defense Law Journal** 145 (April 2010, No. 2).
- OPENING STATEMENTS** “Winning in the Beginning by Winning the Beginning.” 39 **The Brief** 40 (Spring 2010, No. 3.)
- PENSION PLANS** “2010 HRM ‘Stimulus Package’: Seven Best Practices for Your Retirement Savings Plan in a Tough Economy.” 17 **Journal of Pension Benefits** 39 (Spring 2010, No. 3).
- POLICE MISCONDUCT** “New Governance and the ‘New Paradigm’ of Police Accountability: A Democratic Approach to Police Reform.” 59 **Catholic University Law Review** 373 (Winter 2010, No. 2).

- PROPERTY LAW** “A Model Letter of Intent for the Purchase and Sale of Property.” 26 **The Practical Real Estate Lawyer** 43 (May 2010, No. 3).
- RELIGION** “Legislative Prayer and the Secret Costs of Religious Endorsements.” 94 **Minnesota Law Review** 972 (April 2010, No. 4).
- RULES OF CIVIL PROCEDURE** “Are you Drafting a Motion to Dismiss? The Paradigm Shift in Civil Action Pleading Standards.” 52 **For the Defense** 29 (April 2010, No. 4).
- SAME SEX REPRESENTATION** “Considerations, Pitfalls, and Opportunities that Arise When Advising Same-Sex Couples.” 24 **Probate & Property** 24 (May/June 2010, No. 3).
- SEC** “Merging the SEC and CFTC – A Clash of Cultures.” 78 **University of Cincinnati Law Review** 537 (Winter 2009, No. 2).
- SEC ETHICS** “Placebo Ethics: A Study in Securities Disclosure Arbitrage.” 96 **Virginia Law Review** 1 (March 2010, No.1).
- SCHOOL LAW** “Decriminalizing Students with Disabilities.” 54 **New York Law School Law Review** 909 (2009/2010, No. 4).
- “Still Swimming Against the Resegregation Tide? A Suburban Southern School District in the Aftermath of *Parents Involved*.” 88 **North Carolina Law Review** 1145 (March 2010, No. 3).
- SOCIAL NETWORKS** “Physicians and Patients Who ‘Friend’ or ‘Tweet’: Constructing a Legal Framework for Social Networking in a Highly Regulated Domain.” 43 **Indiana Law Review** 285 (2010, No. 2).
- TAX LAW** “Understanding the Service’s New Section 409A Plan Document Correction Program.” 112 **Journal of Taxation** 274 (May 2010, No. 5).
- “2010 and Beyond – The Transfer Tax Odyssey.” 84 **Practical Tax Strategies** 198 (April 2010, No. 4).
- “New Section 2511 (c): A Thorn in the Side, not a Dagger to the Heart.” 84 **Practical Tax Strategies** 284 (May 2010, No. 5).
- “The Accuracy-Related Penalty (Part 1)” 41 **The Tax Adviser** 248 (April 2010, No. 4).

“News Notes: Misc. Articles.” 41 **The Tax Adviser** 294 (May 2010, No. 5).

**UNIFORM ELECTROIC
TRANSACTIONS ACT**

“Predicting the Enforceability of Browse-Wrap Agreements in Ohio.” 36 **Ohio Northern University Law Review** 31 (2010, No. 1).

VA BENEFITS

“Veterans Administration Aid and Attendance Benefits.”
20 **Experience** 28 (2010, No. 2).

VICTIMS’ RIGHTS

“The Voices of Victims: Debating the Appropriate Role of the Fraud Victim Allocution Under the Crime Victims’ Rights Act.”
94 **Minnesota Law Review** 1682 (May 2010, No. 5).