

# SETON HALL LAW REVIEW

Volume Twenty-Four

1993

Number Two

## TABLE OF CONTENTS

### IN MEMORIAM:

JUDGE ROBERT A. MATTHEWS .....	<i>Hon. Dorothea O'C. Wefing</i>	xiii
	<i>John B. Wefing</i>	

### ARTICLES

TRANSPARENCY AND INDETERMINACY IN THE LIBERAL CRITIQUE OF CRITICAL LEGAL STUDIES .....	<i>William A. Edmundson</i>	557
TOWARD A NEW THEORY OF THE CLOSELY-HELD FIRM .....	<i>Terry A. O'Neill</i>	603
TEACHING ADVANCED LEGAL WRITING IN A LAW SCHOOL CLINIC .....	<i>Angela J. Campbell</i>	653
GOVERNMENT ACCOMMODATION OF RELIGIOUS- BASED CONSCIENTIOUS OBJECTION .....	<i>Ronald B. Flowers</i>	695
SOCIAL CONSTRAINT OR IMPLICIT COLLUSION?: TOWARD A GAME THEORETIC ANALYSIS OF STARE DECISIS .....	<i>Erin O'Hara</i>	736
<i>RECENT DEVELOPMENTS IN NEW JERSEY ENVIRONMENTAL INSURANCE LITIGATION</i>		
AN EMERGING CHOICE OF LAW DOCTRINE IN NEW JERSEY ENVIRONMENTAL INSURANCE COVERAGE DISPUTES: THE NEW BATTLEFIELD AFTER <i>GILBERT SPRUANCE</i> .....	<i>Edward C. Laird</i> <i>Ellis I. Medoway</i>	779
DUNGEONS AND DRAGONS®: THE ENVIRONMENTAL INSURANCE GAME OF THE 1990s .....	<i>Fredi L. Pearlmutter</i>	822
<i>MORTON INTERNATIONAL</i> : THE FICTION OF REGULATORY ESTOPPEL .....	<i>Edward Zampino</i> <i>Richard C. Cavo</i> <i>Victor C. Harwood III</i>	847

*COLLOQUIAM: RACIAL CEILINGS AND SCHOOL CHOICE*

AN EMPIRICAL AND CONSTITUTIONAL ANALYSIS  
OF RACIAL CEILINGS AND PUBLIC SCHOOLS ..... *Michael Heise* 921

PUBLIC SCHOOL CHOICE AND  
RACIAL INTEGRATION ..... *Stephen Eisdorfer* 937

*COMMENT*

WORKPLACE SMOKING IN NEW JERSEY: TIME FOR A CHANGE ..... 958

*NOTES*

ARBITRATION

JUDICIAL REVIEW OF ARBITRATION AWARDS—COURTS MAY REVIEW  
AND VACATE AN ARBITRATION AWARD WHERE AN ARBITRATOR  
COMMITS GROSS, UNMISTAKABLE, OR NOT REASONABLY  
DEBATABLE ERRORS OF LAW OR WHERE THE ARBITRATOR  
MANIFESTLY DISREGARDS THE LAW AND THE RESULT IS UNJUST  
(*Perini Corp. v. Greate Bay Hotel & Casino, Inc.*,  
129 N.J. 479, 610 A.2d 364 (1992)) ..... 998

BANKRUPTCY

CHAPTER 13 ‘STRIP DOWN’—SECTION 1322(B)(2) PROHIBITS A  
DEBTOR FROM BIFURCATING A HOMESTEAD MORTGAGEE’S CLAIM  
INTO SECURED AND UNSECURED PORTIONS SO AS TO REDUCE THE  
AMOUNT OF AN UNDERSECURED MORTGAGE TO THE FAIR MARKET  
VALUE OF THE COLLATERAL  
(*Nobelman v. American Savings Bank*,  
113 S. Ct. 2106 (1993)) ..... 1033

BANKRUPTCY

EXCUSABLE NEGLIGENCE—CONSIDERATION OF EQUITABLE FACTORS IS  
PERMITTED FOR LATE CHAPTER 11 PROOF OF CLAIM FILINGS  
UNDER BANKRUPTCY RULE 9006(B)(1) TO DETERMINE IF FILER’S  
CONDUCT CONSTITUTED EXCUSABLE NEGLIGENCE  
(*Pioneer Inv. Serus. v. Brunswick Assocs.*,  
113 S. Ct. 1489 (1993)) ..... 1056

FIRST AMENDMENT

COMMERCIAL SPEECH—FIRST AMENDMENT PROHIBITS LAWS THAT  
FAVOR NEWSRACKS CONTAINING NON-COMMERCIAL PUBLICATIONS  
OVER DISPENSING DEVICES CONTAINING COMMERCIAL  
PUBLICATIONS  
(*City of Cincinnati v. Discovery Network, Inc.*,  
113 S. Ct. 1505 (1993)) ..... 1089

TAXATION

DEPRECIATION—TAXPAYER WHO CAN SHOW THAT AN INTANGIBLE ASSET HAS A LIMITED USEFUL LIFE AND IS CAPABLE OF BEING VALUED MAY DEDUCT DEPRECIATION IN DETERMINING FEDERAL TAXABLE INCOME REGARDLESS OF THE RELATIONSHIP OF THE ASSET TO GOODWILL

*(Newark Morning Ledger Co. v. United States, 113 S. Ct. 1670 (1993))* ..... 1121

*SURVEY OF RECENT DEVELOPMENTS IN NEW JERSEY LAW*..... 1157

BOOK REVIEWS

LAWYER-BASHING FOR FUN AND PROFIT:

THE COLLECTED WORKS OF

JOHN GRISHAM ..... *Hon. Donald G. Collester, Jr.* 1191

THE MODERN TORT LAWYER:

HERO OR VILLAIN ..... *Michael P. Ambroiso* 1195

THE “PURPOSE” DOCTRINE AND

CONSERVATIVE JUDICIAL ACTIVISM ..... *J. Timothy Mc Donald* 1204