

# RICHARD BALES

Mobile: 859-442-8837

Email: r-bales@onu.edu

LinkedIn: [www.linkedin.com/in/rbales1](http://www.linkedin.com/in/rbales1)

Home: Ada, OH; Mars, PA

## EDUCATION

### Juris Doctor

Cornell Law School / 1993

- GPA: 3.53 (3.40=10%), magna cum laude
- Order of the Coif
- Cornell L. Rev. Editor, Cornell J.L. & Pub. Pol. note contributor.

### B.A., Political Science

Trinity University / 1990

- GPA: 3.66, cum laude

## ADMINISTRATIVE EXPERIENCE

### Dean

Ohio Northern Law School / Ada, OH / 2013 – 2016  
[returned to faculty 2016-18; visiting at Akron 2018-20]

Led all aspects of the law school, including strategic planning, admissions, budget management, academic programming, staff leadership, facility maintenance, and encouraging faculty scholarship. Served as the direct liaison to the provost/president/alumni board and an accessible champion for students. Engaged with alumni and the external community to promote the school and raise private funds for scholarships, professorships, programs, and facilities. Hired high-caliber and diverse faculty, placed staff in positions that leveraged their strengths, and provided the team with the resources and freedom to succeed.

### Academic and Program Development

- Held new student credentials steady despite an increasingly competitive admissions environment.
- Obtained accreditation for a new Iceland summer study-abroad program which attracted students from other law schools and generated income for the Law School.
- Conducted, in conjunction with the faculty, deep empirical research to design a Bar Pass program and influenced faculty to adopt its usage.

### Fundraising

- Raised \$80K in alumni gifts during the first year (2013), which was consistent with historical annual donations. Acquired \$186K in alumni gifts during the final year (2015), which was more than double the norm.
- Built a fundraising program from the ground up and achieved the first large donation milestone by securing a \$2.5M planned gift, \$500,000 endowed student scholarship fund, and \$40,000 cash donation.
- Significantly expanded alumni outreach, which improved the short and long-term pipeline for cash and planned gifts.

### Accreditation

- Chair, Faculty Self-Study Committee, NKU-Chase, 2011-12

- Successfully passed ABA re-accreditation as Dean at ONU in 2013-2014.
- Service as ABA Site Evaluation Team or Site Inspector:
  - Site Evaluator, ABA Site Evaluation Team, Feb. 2019
  - Site Inspector for Teach-Out Plan, Nov. 2018
  - Site inspector for compliance with Law Graduate Employment Data, July 2017
  - Site Evaluator, ABA Site Evaluation Team, Feb. 2017

### **Budget Management**

- Facing budget cuts, saved \$1M in annual expense without using layoffs. Reductions improved Law School financial health while sustaining faculty morale and professional development investments.
- Doubled the number of foreign students enrolling in LL.M. program, which increased revenue via full tuition payments.
- Law School budget always stayed black, notwithstanding frequent late-fiscal-year cuts to the Law School budget by the University.

### **Faculty Diversity**

- Over the course of three years, increased female faculty tenure track representation from 27% to 35% and ethnically diverse faculty representation from 14% to 18%. Improvements were attributed to building proactive relationships with female/ethnically diverse talent, targeted recruiting, and building diverse interviewing slates.

### **Professional Development**

- GWU Legal Communicators Media Conference, June 2015
- CASE Development for Deans Conference, Feb. 2016
- ABA Law School Development Conference, June 2016
- ABA Site Evaluation Workshop, October 2016
- GMU Taking Legal Education Online Conference, June 2018.

### **Director of Advocacy Center**

Northern Kentucky University Chase College of Law / Highland Heights, KY / 2009 - 2013

Coached and developed student competition teams that competed in moot courts, mock trials, client counseling, and negotiations. Engaged alumni in coaching teams and serving as practice-round judges which bonded them to the school and paved the way for future donations.

### **Associate Dean for Faculty Development**

Northern Kentucky University Chase College of Law / Highland Heights, KY / 2007 - 2009

Mentored junior faculty to prepare them for the tenure process and provided feedback on faculty members' draft scholarship. Encouraged faculty to continue developing and elevate performance. Celebrated faculty member success, which reinforced high performance and inspired other faculty members to raise their efforts.

- Achieved and celebrated a faculty citation-list milestone of becoming a top-25 U.S. law school by SSRN downloads.

### **Interim Dean**

Northern Kentucky University Chase College of Law / Highland Heights, KY / 2006 - 2006

Managed the law school on an interim basis during the new dean search process. Secured significant gifts that were already in process and laid the groundwork for new gifts that were later obtained by the new Dean. Learned

life-long lessons in fundraising, faculty management, servant leadership, and peer mentorship that would prove invaluable in future roles.

## TEACHING EXPERIENCE

- **Visiting Professor** / University of Akron Law School / 2018-present
- **Professor** / Ohio Northern University / 2013 – present. ONU is a private university affiliated with the Methodist Church, enrolling 3000 students in rural Ohio.
- **Professor** / Northern Kentucky University Chase College of Law / Highland Heights, KY / 1998 – 2013. NKU is a student-centered university enrolling 14,000 students in suburban Cincinnati.
- **Professor with Tenure** / Northern Kentucky University Chase College of Law / Highland Heights, KY / 2003 - 2013
- **Associate Professor** / Northern Kentucky University Chase College of Law / Highland Heights, KY / 2001 - 2003
- **Assistant Professor** / Northern Kentucky University Chase College of Law / Highland Heights, KY / 1998 - 2001
- **Adjunct Professor** / University of Houston Law / Houston, TX / 1994 - 1996
- **Visiting Assistant Professor** / University of Montana Law School / Missoula, MT / 1998
- **Visiting Assistant Professor** / Southern Methodist University Law School / Dallas, TX / 1996 - 1997

## PROFESSIONAL EXPERIENCE

- **Associate** / Baker & Hostetler / Houston, TX / 1995 - 1996
- **Associate** / Baker Botts / Houston, TX / 1993 - 1995

## HONORS

- Frank Sinton Milburn Award Winner for Outstanding Professor/ Northern Kentucky University/ 2010

## PROFESSIONAL ASSOCIATIONS AND COMMITTEES

### Executive Committee Member

AALS ADR Section / 2018 - Present

### Fellow

American Bar Foundation / 2013 – Present

### Judge

American Bar Association – College of Labor & Employment Attorneys / Law Student Writing Competition, ABA Labor & Employment Section / 2017 - Present

### Treasurer (2011 – Present); Executive Committee (2010 – Present); Member (1999 – Present)

Labor Law Group / 1999 - Present

### Peer Reviewer

- **Cambridge University Press**
  - 2016, Nestor Davidson et al., Cambridge Handbook on the Regulation of the Sharing Economy.
  - 2017, Paul Harpur, Ableism at Work: Law, Disability, and Hierarchies of Impairments.
  - 2018, Miriam A. Cherry, Digilantes, Labor Activists, and Whistleblowers: Seeking Rough Justice in Cyberspace.
  - 2019, Angela Cornell & Mark Barenberg, The Cambridge Handbook of Labor and Democracy.

- **Relations Industrielles / Industrial Relations**, peer reviewed labor journal at Université Laval in Quebec City, Canada (I serve as Editorial Committee Member and peer reviewer; I review 3-4 article submissions/year).

### **Arbitrator**

- Member, National Academy of Arbitrators (since 2019). Active committee membership:
  - Annual Proceedings Committee
  - International Studies Committee
  - Research and Education Foundation (incoming Vice President of Marketing)
- Panels:
  - American Arbitration Association (labor, employment, commercial panels)
  - Federal Mediation & Conciliation Service
  - National Mediation Board panel of arbitrators

### **Editor**

American Bar Association / ABA Section of Labor & Employment Law & International Labor & Employment Law Committee Newsletter / 2015 - Present.

### **Fulbright Specialist**

- Monash University Sunway / Malaysia / 2010
- University of Tarumanagara / Jakarta, Indonesia / 2013

### **Elected Member**

American Law Institute / 2010

### **Chair and Subcommittee Member**

American Bar Association / Competitions Committee / Negotiation Competition / Member, 2010 – Present; Chair, 2012 - 2016

### **Faculty Advisor**

Black Law Students Association / Northern Kentucky University / 2001 – 2007

## **PUBLICATIONS**

### **Books**

Cambridge Handbook of US Labor Law: Reinventing Labor Law for the 21st Century (Cambridge University Press 2020), co-authored with Charlotte Garden.

International Labor and Employment Laws (Bloomberg Law/ABA Section of Labor & Employment Law, co-edited with Anne M. Radolinski, Sixth Edition anticipated 2020).

ADR in the Workplace

- First Edition, co-authored with Laura J. Cooper and Dennis R. Nolan, West 2000.

- Second Edition, co-authored with Laura J. Cooper and Dennis R. Nolan, West 2005.
- Third Edition, co-authored with Laura J. Cooper, Dennis R. Nolan, and Stephen F. Befort, West 2014.
- Fourth Edition, co-authored with Laura J. Cooper, Dennis R. Nolan, Stephen F. Befort, Lise Gelernter, and Michael Z. Green, West 2020.

#### Arbitration Law,

- Second Edition, co-authored with Katherine Stone, Foundation Press 2010, with Teacher's Manual.
- Third Edition, co-authored with Katherine Stone and Alexander Colvin, Foundation Press 2015.

#### Labor Law: Collective Bargaining in a Free Society,

- Sixth Edition, co-authored with Dennis R. Nolan, West 2009, with Teacher's Manual.
- Seventh Edition, co-authored with Dennis R. Nolan & Raphael Gely, West 2018, with Teacher's Manual.

Labor & Employment Arbitration in a Nutshell (3d ed. 2017), co-authored with Dennis R. Nolan.

#### Understanding Employment Law,

- First Edition, co-authored with Jeff Hirsch and Paul Secunda, LexisNexis 2007.
- Second Edition, co-authored with Jeff Hirsch and Paul Secunda, LexisNexis 2013.
- Third Edition, co-authored with Jeff Hirsch and Paul Secunda, LexisNexis 2019.

Compulsory Arbitration: The Grand Experiment in Employment, Cornell University ILR Press 1997. Reviewed by Susan T. Mackenzie, 52 I.L.R. Rev. 648 (1999).

### Book Chapters

*The Impact of International Human Rights Law on Labor and Employment Law*, Bloomberg-ABA International Labor & Employment Law, (co-authored with Daniel J. Kimmons), 5th ed. 2016 (with annual update in 2017).

*Indonesia*, chapter in William L. Keller & Timothy J. Darby, eds., *International Labor and Employment Laws* (Bloomberg BNA - ABA Section of Labor & Employment Law 2013), co-authored with Cornel B. Juniarto & Stefanus Brian Audyanto.

*The U.S. Employment Law Perspectives on the Issue of Who Owns an Employee's Invention*, chapter in Marilyn Pitard et al., *Business Innovation & the Law: Perspectives from Intellectual Property, Labour, Competition & Corporate Law* 199 (Edward Elgar 2013).

*How Congress Can Make a More Equitable Federal Arbitration Act*, chapter in Thomas E. Carbonneau & Angelica M. Sinopole, *Building the Civilization of Arbitration* (Wildy, Simmonds & Hill 2010) (co-authored with Sue Irion).

*Employer-Sponsored Arbitration of Statutory Claims in the Nonunionized Employment Context*, in Elkouri & Elkouri, *How Arbitration Works* 25-36 (6th ed. 2003).

### Articles

*The Invisible Web at Work: Artificial Intelligence and Electronic Surveillance in the Workplace*, 41 Berkeley J. Lab. & Employ. L. \_\_\_\_ (co-authored with Kathy Stone (UCLA)) (forthcoming spring 2020).

*The Economics of Labor Law in Thailand, Viet Nam, and the United States*, \_\_\_\_ Akron L. Rev. \_\_\_\_ (forthcoming fall 2020) (to be republished in law reviews in Viet Nam and Thailand) (co-authored with Trần Thị Kiều Trang and Panthip Pruksacholavit).

*What Makes a "Reasoned" Arbitration Award?*, \_\_\_ Arbitration L. Rev. \_\_\_ (forthcoming 2020) (co-authored with Steven Hooten).

*Co-Authoring Legal Scholarship with Students*, 27:1 Perspectives: Teaching Research and Writing 4 (2019) (co-authored with Stephen F. Befort).

*Legal Responses to the Rise of the On-Demand Economy in Georgia and the United States*, 1 [Republic of] Georgia L.J. (co-authored with Ana Mikhalidze).

*Resurrecting Labor*, 77 Maryland L. Rev. 1 (2017).

*On the Precipice: Prospects for Free Labor Unions in Vietnam*, 19 San Diego Int'l L.J. 71 (2017) (co-authored with Trần Thị Kiều Trang).

*Video Games in Job Interviews: Using Algorithms to Minimize Discrimination and Unconscious Bias*, 32 ABA J. Lab. & Employ. L. 211 (2017) (co-authored with David D. Savage).

*Transnational Employment Trends in Four Pacific Rim Countries*, 34 UCLA Pacific Rim L.J. 1 (2016) (co-authored with Lia Alizia, Masako Banno, Maria Jockel, Melissa Pang, & Catherine Tso).

*The Uber Million Dollar Question: Are Uber Drivers Employees or Independent Contractors?*, 68 Mercer L. Rev. 461 (2017) (co-authored with Christian Woo).

*Born in the Bandwidth: "Digital Native" As Pretext for Age Discrimination*, 31 ABA J. Lab. & Employ. L. 521 (2016) (co-authored with Jessica Sink).

*A Proposal for Enforcing Minors' Employment Contracts*, 36 Whittier L. Rev. 411 (2015) (co-authored with Matthew Miller-Novak).

*A Comparative Analysis of Labor Outsourcing*, 31 Arizona J. Int'l & Comparative L. 579 (2014) (co-authored with Stefanus Brian Audyanto, Sefa Guven, Maria Jockel, Cornel B. Juniarto, Jiang Junlu, & David Langmead).

*When a U.S. Domestic Court Can Enjoin a Foreign Court Proceeding*, 22 Cardozo J. Int'l & Comparative L. 473 (2014) (co-authored with Samantha Koeninger).

*Oddball Arbitration*, 30 Hofstra Lab. & Employ. L.J. 405 (2013) (co-authored with Mark B. Gerano).

*The Damage is Done: Ordering a New Trial Based Solely on Damages*, 40 Pepperdine L. Rev. 625 (2013) (co-authored with Katherine Kubale).

*Using Final-Offer Arbitration to Resolve Public Sector Impasses in Times of Concession Bargaining*, 28 Ohio St. J. Disp. Resol. 1 (2013) (co-authored with Michael Carrell).

*A Minor Problem with Arbitration: A Proposal for Arbitration Agreements Contained in Employment Contracts of Minors*, 44 McGeorge L. Rev. (2013) (co-authored with Matthew Miller-Novak).

*Determining the Proper Standard for Invalidating Arbitration Agreements Based on High Prohibitive Costs: A Discussion on the Varying Applications of the Case-by-Case Rule*, 14 Transactions: Tenn. J. Bus. L. 57 (fall 2012) (co-authored with Mark B. Gerano).

*Australia's Solution to Disability Discrimination Enforcement*, 11 Cornell H.R. Rev. (2011) (co-authored with Paul Harpur & Ben French), <http://www.cornellhrreview.org/australias-solution-to-disability-discrimination-enforcement/>.

*Australia's Fair Work Act and the Transformation of Workplace Disability Discrimination Law*, 30 Wisconsin Int'l L.J. 190 (2012) (co-authored with Paul Harpur & Ben French).

*Concepcion and Preemption Under the Federal Arbitration Act*, 2012 Penn State Yearbook on Arbitration & Mediation 9 (co-authored with Ian D. Mitchell).

*ERISA Failures and the Erosion of Workers' Rights: The Urgent Need to Protect Private & Public Workers' Pensions and Benefits*, 75 Albany L. Rev. 449 (2011-12) (co-authored with James P. Allen, Jr.).

*A Data-Driven Snapshot of Labor and Employment Law Professors*, 56 St. Louis U. L. J. 231 (2011).

*Ethical Problems in Class Arbitration*, 2011 J. Dispute Resol. 309 (co-authored with Andrew Powell).

*Defining Independent Contractor Protection Under the Rehabilitation Act*, 34 Hamline L. Rev. 435 (2011) (co-authored with Lindsay Mongenas).

*Elections, Neutrality Agreements, and Card Checks: The Failure of the Political Model of Industrial Democracy*, 87 Indiana L.J. 147 (2011) (co-authored with James Moore).

*An Analysis of an Order to Compel Arbitration: To Dismiss or Stay?*, 115 Penn St. L. Rev. 539 (2011) (co-authored with Melanie Goff).

*A "Plausible" Defense: Applying Twombly and Iqbal to Affirmative Defenses*, 34 Am. J. Trial Advoc. 605 (2011) (co-authored with Melanie Goff).

*Capping the Costs of Consumer and Employment Arbitration*, 42 Toledo L. Rev. 903 (2011) (co-authored with Michelle Eviston).

*Much Ado About Nothing: The Future of Manifest Disregard After Hall Street*, 62 S. Carolina L. Rev. 407 (2010) (co-authored with MyLinda Sims).

*Waiving Rights Goodbye: Class Action Waivers in Arbitration Agreements After Stolt-Nielsen v. Animalfeeds International*, 11 Pepperdine Disp. Resol. J. 275 (2011) (co-authored with Diana Link).

*Interpreting NLRB v. Burns Int'l Sec. Servs., Inc.: The Not So "Perfectly Clear Successor" Exception*, 7 Seton Hall Cir. Rev. 1 (2010) (co-authored with Andrew Willis).

*Education for Americans with Disabilities: Reconciling IDEA with the 2008 ADA Amendments*, 37 N. Ky. L. Rev. 389 (2010) (co-authored with Kathryn M. Smith).

*The Federal Arbitration Act Needs a Due Process Protocol*, 29 Banking & Financial Services Policy Report 9 (July 2010) (co-authored with Michelle Eviston).

*Narrowing Successorship: The Alter Ego Doctrine and the Role of Intent*, 8 DePaul Business & Commercial L.J. 151 (2010) (co-authored with Andrew Willis).

*The Validity of the Two-Member NLRB*, 6 Seton Hall Circuit Rev. 261 (2010) (co-authored with Kelli Kleisinger).

*The Positive Impact of the Convention on the Rights of Persons with Disabilities: Introduction, Implementation, and the Islands of the South Pacific*, 37 N. Ky. L. Rev. 363 (2010) (co-authored with Paul Harpur).

*Commentary on Proposed ALR Restatement on Employment Law, Chapter 4 – The Tort of Wrongful Discipline in Violation of Public Policy*, 13 Employee Rts. & Employment Pol'y J. 159 (2009) (with Joseph R. Grodin et al.).

*How Congress Can Make a More Equitable Federal Arbitration Act*, 113 Penn. St. L. Rev. 1081 (2009) (co-authored with Sue Irion).

*Plus at Pretext: Resolving the Split Regarding the Sufficiency of Temporal Proximity Evidence in Title VII Retaliation Cases*, 44 Gonzaga L. Rev. 493 (2009) (co-authored with Troy Daniels).

*Explaining the Spread of At-Will Employment as an Inter-Jurisdictional Race-to-the-Bottom in Employment Standards*, 75 Tenn. L. Rev. 453 (2008).

*Federal Question Jurisdiction and the Federal Arbitration Act*, 80 Colorado L. Rev. 89 (2008) (co-authored with Jamie L. Ireland).

*Compulsory Arbitration as Part of a Broader Employment Dispute Resolution Process: The Anheuser-Busch Example*, 26:1 Hofstra Lab. & Emp. L.J. 1 (2008) (co-authored with Jason N.W. Plowman).

*Naming a Defendant in an ERISA Action*, 9 Transactions: Tennessee J. Bus. L. 317 (2008) (co-authored with Candace Budy).

*Transgender Employment Discrimination*, 17 UCLA Women's L.J. 243 (2008) (co-authored with Katie Koch).

*Disability Claims for Alcohol-Related Misconduct*, 82 St. John's L. Rev. 699 (2008) (co-authored with Dustin Riddle).

*Title II of the Americans With Disabilities Act of 1990 and Its Prohibition of Employment Discrimination*, 28 N. Ill. U. L. Rev. 183 (2008) (co-authored with Jamie L. Ireland).

*Beyond the Protocol: Recent Trends in Employment Arbitration*, 11 Employee Rights & Employment Pol'y J. 301 (2007), reprinted at 76 Daily Lab. Rep. A-1, B-1, E-1 (Apr. 20, 2007).

*Extending OWBPA Notice and Consent Protections to Arbitration Agreements Involving Employees and Consumers*, 8 Nev. L.J. 10 (2007) (co-authored with Christopher J. Kippley), reprinted at ICFAI Consumer Laws: Emerging Perspectives (2008).

*A Normative Consideration of Employment Arbitration at Gilmer's Quinceanera*, 81 Tulane L. Rev. 331 (2006).

*Unilateral-Modification Provisions in Employment Arbitration Agreements*, 24 Hofstra Lab. & Emp. L. J. 63 (2006) (co-authored with Michael L. DeMichele), reprinted at 6 ICFAI Journal for Alternative Dispute Resolution 29 (July 2007).

*HIPAA As a Political Football: Its Impact on Informal Discovery in Employment Law Litigation*, 111 Penn St. L. Rev. 137 (2006) (co-authored with Brian K. Powell).

*Contract Formation Issues in Employment Arbitration*, 44 Brandeis L.J. 415 (2006).

*German and European Employment Discrimination Policy*, 9 Oregon Rev. Int'l L. 261 (2006) (co-authored with Raphael Won-Pil Suh).

*The Employment Due Process Protocol at Ten: Twenty Unresolved Issues, and a Focus on Conflicts of Interest*, 21 Ohio State J. Dispute Resolution 165 (2005), reprinted at ICFAI J. Employment L., vol. 4 no. 4, at 34 (Oct. 2006).

*Family Medical Leave Act Standards of Proof and the Impact of Desert Palace on Retaliation Claims*, 28 N.C. Cent. L. Rev. 32 (2005) (co-authored with Carol L. Risk).

*Adverse Employment Action in Retaliation Cases*, 34 U. Baltimore L. Rev. 313 (2005) (co-authored with Brian Riddell).

*Employer Liability for Emotional Distress Arising from Investigation of a Title VII Harassment Complaint*, 23 Quinnipiac L. Rev. 1027 (2005) (co-authored with Amanda Jay Mullins).

*The Laissez-Faire Arbitration Market and the Need for a Uniform Federal Standard Governing Employment and Consumer Arbitration*, 52 Kansas L. Rev. 583 (2004).

*Why a Written Request for Plan Documents by an Attorney Representing a Plan Participant or Beneficiary Should Trigger a Plan Administrator's Duty of Disclosure Under ERISA*, 29 U.S.C. § 1024(b)(4), 32 Capital L. Rev. 803 (2004) (co-authored with Shane S. Crase).

*The Immunity of Foreign Subsidiaries Under the Foreign Sovereign Immunities Act*, 13 Minn. J. Global Trade (now published as Minn. J. Int'l L.) 353 (2004) (co-authored with Melissa Lang).

*The Inherent Power of the Federal Courts to Compel Participation in Nonbinding Forms of Alternative Dispute Resolution*, 42 Duquesne L. Rev. 1 (2004) (co-authored with Amy M. Pugh) (lead article).

*Interest Accrual on Attorney Fee Awards*, 23 Rev. Litig. 115 (2004) (co-authored with Nick J. Kemphaus).

*The Arbitrability of Side and Settlement Agreements in the Collective Bargaining Context*, 105 W. Va. L. Rev. 575 (2003).

*Pro Se Litigants and Summary Judgment*, 214 F.R.D. 231 (2003) (co-authored with Hailey L. Scoville).

*HIV and the Direct Threat Defense*, 91 Ky L.J. 859 (co-authored with Katrina Atkins) (2003).

*A Survey of Kentucky Employment Law: A Look at Employment Discrimination Claims Brought Under the Kentucky Civil Rights Act*, 30 N. Ky. L. Rev. 71 (2003) (co-authored with Elaine Korb).

*A Permanent Stop Sign: Why Courts Should Yield to the Temptation to Impose Heightened Pleading Standards in § 1983 Cases*, 41 Brandeis L.J. 267 (co-authored with Elaine Korb) (2002).

*Employer Notice Requirements Under the Family and Medical Leave Act*, 67 Missouri L. Rev. 883 (co-authored with Sarah Nefzger) (2002) (lead article).

*Contracting Around the FAA: The Enforceability of Private Agreements to Expand Judicial Review of Arbitration Awards*, 18 Ohio St. J. Disp. Resol. 151 (co-authored with Margaret Maggio) (2002).

*Enjoining Nonparties*, 26 Am. J. Trial Advoc. 79 (co-authored with Ryan Allison) (2002).

*Insuring Title VII Violations*, 27 S. Ill. U. L. Rev. 71 (co-authored with Julie McGhghy) (2002).

*No Harm, No Foul: The OSHRC's Authority to Label an OSH Act Violation de Minimis and to Require No Abatement*, 22 N. Ill. U. L. Rev. 383 (co-authored with Samuel D. Elswick) (2002) (lead article).

*Workplace Investigations in Ohio*, 31 Cap. U. L. Rev. 29 (2001) (co-authored with Jeffrey A. McCormick) (2002).

*A Constitutional Defense of Qui Tam*, 2001 Wisconsin L. Rev. 381.

*Internet Web Site Jurisdiction*, 20 John Marshall J. Computer & Information L. 21 (co-authored with Suzanne Van Wert) (2001).

*Arbitral Discovery of Non-Parties*, 2001 J. Dispute Resol. 321 (co-authored with Jason F. Darnall).

*Personal Jurisdiction and the Web*, 53 Maine L. Rev. 29 (2001) (co-authored with Joseph S. Burns).

*Survey of Kentucky Employment Law*, 28 N. Ky. L. Rev. 219 (co-authored with Joseph S. Burns; lead article) (2001).

*Reconciling Labor and Bankruptcy Law: The Application of 11 U.S.C. § 1113*, 2001 MSU L. Rev. 1145 (co-authored with Donald B. Smith).

*Electronically Submitting Manuscripts to Law Reviews*, 30 Stetson L. Rev. 577 (2000).

*The Discoverability of Surveillance Videotapes Under the Federal Rules*, 53 Baylor L. Rev. 753 (co-authored with Donna Denham) (2000).

*ADEA Disparate Impact in the Sixth Circuit*, 26 Ohio N. U. L. Rev. 1 (co-authored with Jennifer Clemons) (2000) (lead article).

*Workplace Investigations in Kentucky*, 27 N. Ky. L. Rev. 201 (co-authored with Richard O. Hamilton, Jr.) (2000).

*Using Mitigating Measures to Determine Disability Under the Americans With Disabilities Act*, 45 S. Dakota L. Rev. 33 (co-authored with Perry Meadows, M.D.) (2000).

*Compulsory Employment Arbitration and the EEOC*, 27 Pepperdine L. Rev. 1 (1999) (lead article).

*Using the Same Actor "Inference" in Employment Discrimination Cases*, 1999 Utah L. Rev. 255 (co-authored with Anna Laurie Bryant).

*Creating and Challenging Compulsory Arbitration Agreements*, 13 Labor Law. 511 (1998).

*The Presence of Third Parties at Rule 35 Examinations*, 71 Temple L. Rev. 103 (1998) (co-authored with William Scott Wyatt).

*The Discord Between Collective Bargaining and Individual Employment Rights: Theoretical Origins and a Proposed Solution*, 77 Boston U. L. Rev. 687 (1997) (lead article).

*The Availability of Rule 35 Mental Examinations in Employment Discrimination Cases* (co-authored with Priscilla Ray, M.D.), 16 Rev. Litig. 1 (1997) (lead article).

*Compulsory Arbitration of Employment Claims: A Practical Guide to Designing and Implementing Enforceable Agreements*, 47 Baylor L. Rev. 591 (1995) (lead article).

*The Nonappealability of Disqualification Orders in Bankruptcy Proceedings*, 4 J. Bankr. L. & Prac. 543 (1995).

*A New Direction for American Labor Law: Individual Autonomy and the Compulsory Arbitration of Individual Employment Rights*, 31 Hous. L. Rev. 1864 (1994).

*A New Standard for Title VII Opposition Cases: Fitting the Personnel Manager Double Standard Into a Cognizable Framework*, 35 S. Tex. L. Rev. (1994).

*Investigating Employee Misconduct: A Private Sector, Nonunion Employer's Guide to Controlling the Workplace Without Getting Sued*, 13 Corp. Counsel Rev. 219 (1994).

*The Future of Employment Arbitration in the Nonunion Sector*, 45 Lab. L.J. 627 (1994) (co-authored with Reagan Burch).

*Libertarianism, Environmentalism, and Utilitarianism: An Examination of Theoretical Frameworks for Enforcing Title I of the Americans with Disabilities Act*, 1993 Det. C.L. Rev. 1163 (1993).

*Once Is Enough: Evaluating When a Person Is Substantially Limited in Her Ability to Work*, 11 Hofstra Lab. L.J. 203 (1993).

Note, *Title I of the Americans with Disabilities Act: Conflicts Between Reasonable Accommodation and Collective Bargaining*, 2 Cornell J. Law & Pub. Pol 161 (1992).

## Essays

*COVID-19 and Labour Law: U.S., Italian Labour Law* e-Journal (April 2020), <https://illej.unibo.it/article/view/10807>.

*Artificial Intelligence in the Workplace*, Ohio State Bar Association's Labor and Employment Law Newsletter (spring 2020).

*Law School Competition Teams: Practicing for Practice*, ABA Before the Bar (Aug. 29, 2018), <https://abaforlawstudents.com/2018/08/29/law-school-competition-teams-practicing-for-practice/>.

*Labor Arbitration: Practical Ways to Cut Costs without Sacrificing Quality*, 44 #4 ABA Section of Labor & Employment Law Newsletter 1 (summer 2016).

*Author Relations*, 30 Thomas M. Cooley L. Rev. 237 (2013).

*Kentucky's Public Pension Crisis*, Lex Loci (March 2012) (co-authored with Jacob Cales).

*Employment Discrimination Under Title II of the Americans with Disabilities Act*, 33 Admin. & Reg. L. News 12 (Summer 2008) (co-authored with Jamie L. Ireland).

*An Introduction to Arbitration*, Kentucky Bench & Bar (March 2006).

*Thinking About Scholarship*, in AALS New Law Professors Section Newsletter (2005).

*Why Write?*, 32 Student Lawyer 14 (Oct. 2003), reviewing Eugene Volokh, *Academic Legal Writing* (2003).

*Sentences*, Kentucky Bench & Bar (July 2004).

*Graphics*, Kentucky Bench & Bar (May 2004).

*Footnotes*, Kentucky Bench & Bar (March 2004).

*Cultured Writing*, Kentucky Bench & Bar (Jan. 2004), reprinted in 86 Michigan Bar J. 46 (Jan. 2007).

*Apostrophes*, Kentucky Bench & Bar (Nov. 2003).

*Quotations*, Kentucky Bench & Bar (Sept. 2003).

*Headings*, Kentucky Bench & Bar (July 2003).

*Balance*, Kentucky Bench & Bar (May 2003).

*Form & Substance*, Kentucky Bench & Bar (March 2003).

*Writing for Legal Publication*, Kentucky Bench & Bar (Nov. 2002), reprinted in *The Scrivener* (Winter 2007).

*Transitions*, Kentucky Bench & Bar (Sept. 2002), reprinted in *The Scrivener* (Spring 2007).

*Telling A Story*, Kentucky Bench & Bar (July 2002).

*Gender Neutral Language*, Kentucky Bench & Bar (May 2002).

*Density*, Kentucky Bench & Bar (March 2002).

*Active Writing*, Kentucky Bench & Bar (Jan. 2002).

*Independence vs Accountability: Judges' Rulings Differ Depending Upon Whether They're Appointed or Elected*, 13 Kentucky Journal 8 (Summer 2001).

## **Publications by Students**

Tyler D. Lane, *Are You Ready for the Check? Employers Face Title VII Disparate Impact Liability for Discriminatory Tipping Practices*, 44 Dayton L. Rev. 53 (2018).

Emily N. Litzinger, *Willfulness, Good Faith, and the Fair Labor Standards Act*, 12 Nevada L.J. 112 (2011).

Emily N. Litzinger, *U.S. Supreme Court Expands "Cat's Paw" Liability*, Louisville Bar Briefs 10-11 (May 2011).

Sue Irion, *The [Un]Constitutionality of the NLRA's Religious Accommodation Provision*, 44 Gonzaga L. Rev. 325 (2009).

Lindsay Niehaus, *The Fifth Amendment Disclosure Obligations of Government Employers When Interrogating Public Employees*, 21 Regent U. L. Rev. 59 (2009).

Lindsay Niehaus, *The Title IX Problem: Is it Sufficiently Comprehensive to Subsume §1983 Actions?*, 27 Quinnipiac L. Rev. 499 (2009).

Tim Davis, *Beyond the "Cat's Paw": An Argument for Adopting a "Substantially Influences" Standard for Antidiscrimination Liability*, 6 Pierce L. Rev. 247 (2007).

Heather E. DePremio, *The War Within the War: Notice Issues for Veteran Reemployment*, 53 Naval L. Rev. 31 (2006).

Carrie Fischesser, *Employer Vicarious Liability for Voluntary Relationships Between Supervisors and Employees*, 29 Seattle U. L. Rev. 637 (2006).

Michael E. Nitardy, *The (R)evolution in ERISA Preemption*, 18 St. Thomas L. Rev. 139 (2005).

Patrick A. Hartman, *"Interacting with Others" As a Major Life Activity Under the Americans with Disabilities Act*, 2 Seton Hall Circuit Rev. 139 (2005).

Sharlott Thompson, *Hostile Work Environment Disability Harassment Under the Americans with Disabilities Act*, 73 U.M.K.C. L. Rev. 715 (2005).

Brian A. Riddell, *The Ability of Successor Employers to Enforce Covenants Not to Compete*, 33 Capital L. Rev. 499 (2004).

Nikolas Johnson, *Erroneously Conferred Eligibility Under the Family Medical Leave Act*, 26 N.C. Cent. L.J. 88 (2004).

Suzanne Bookser, *Making Gault Meaningful: Access to Counsel and Quality of Representation in Delinquency Proceedings for Indigent Youth*, 3 Whittier J. Child & Family Advoc. 297 (2004).

David J. Bross, *The Use of Pattern-and-Practice by Individuals in Non-Class Claims*, 28 Nova L. Rev. 795 (2004).

Lisa Wenzel, *ERISA and the Exhaustion Dilemma: When Must Plaintiffs Exhaust Administrative Remedies Prior to Filing Suit*, 16 Regent U. L. Rev. 417 (2004).

Tara R. Jones, *The Threat-to-Self Defense and the Americans with Disabilities Act*, 27 S. Ill. U. L. Rev. 539 (2003).

Deborah Zimmerman, *Civil Contemnors, Due Process, and the Right to a Jury Trial*, 3 Wyoming L. Rev. 205 (2003).

Nikolas Johnson, *Enforceability Determination Methods for Arbitration Fee Allocation Clauses in Employment-Related Disputes Requiring Fifty Percent Fee Payment by Employees*, 2 Rutgers Conflict Resol. L. J. (2003) (available online at <http://www.pegasus.rutgers.edu/~rcrlj/johnson.pdf>).

Thomas E. Fielder, *Keep Your Mouth Shut and Listen: The NFL Player's Right of Free Expression*, 10 U. Miami Bus. L. Rev. 547 (2002).

Jennifer Clemons, *FLSA Retaliation: A Continuum of Employee Protection*, 53 Baylor L. Rev. 535 (2001).

## Recent Presentations

- *Artificial Intelligence in the Workplace*, Southwest Regional meeting of the National Academy of Arbitrators, Dallas Texas, Feb. 2020.
- *What Makes a "Reasoned" Arbitration Award?*, Penn State Law School, Feb. 2020.
- *Artificial Intelligence in the Workplace*, presentation to faculty and students at Penn State University School of Labor and Employment Relations, Feb. 2020.
- *Same but Different – Similarities and Differences between US and German Anti-Discrimination Laws*, co-presentation with Dr. Daniel Hund to Rechtsanwalt, Munich (Dec. 2019).
- *Artificial Intelligence in the Workplace*, Capital University Labor & Employment Law CLE, Columbus OH, November 2019.
- *Artificial Intelligence in the Workplace*, Ohio State Bar Assoc. 56th Annual Midwest Labor & Employment Law Seminar, Columbus OH, Oct. 2019.
- *Labor Law & Dispute Resolution in Southeast Asia*, co-presentation with Richard Fincher, 14th Annual Colloquium on Scholarship in Employment & Labor Law, UNLV Law School, October 2019.
- *Artificial Intelligence in the Workplace*, faculty scholarship workshop, University of Akron Law School, October 2019.
- *Artificial Intelligence and Labor-Management Relations*, Labor and Employment Relations Association of Northeastern Ohio meeting, Cleveland OH, May 2019.
- Moderator, *The Impact of AI, Digitization and Robotics in the International Workplace*, ABA Midyear Meeting of the International Labor and Employment Law Committee, Buenos Aires, May 2019.
- *Artificial Intelligence in the Workplace and Using Small-Scale Simulations in ADR and Labor/Employment Courses*, 13th Annual Colloquium on Scholarship in Employment & Labor Law, University of South Carolina School of Law, Sept. 27-29, 2018.
- *Artificial Intelligence in the Law School*, presentation at George Mason University conference on Taking Legal Education Online (June 8-10, 2018).
- Moderator, *Artificial Intelligence in the Workplace*, ABA Midyear Meeting of the International Labor and Employment Law Committee, Milan, May 2018.
- Moderator, Peer Reviewer, and Discussant, *Minimum Wages in Viet Nam: Facts, Debates, Global Experiences, and Recommendations*, Ton Duc Thang University (Đại học Tôn Đức Thắng), Viet Nam, January 8-9, 2018.
- Multiple seminars, lectures, and workshops, Ha Noi Law University (Đại học Luật Hà Nội), Viet Nam, January 2-15, 2018.
- *Principles of International Labour Law*, Paññāsāstra University and Royal University of Law and Economics, Cambodia, December 2017, and Ha Noi Law University, January 2018.
- *Labor Arbitration in the United States*, Yangon University, Yangon, Myanmar, December 2017.

- *Unification of Labour Law and the Rise of the On-Demand Economy*, Tbilisi State University, Tbilisi, Georgia, October 10, 2017; *Legal Pedagogy Workshop*, International Black Sea University, Tbilisi, Georgia, October 12, 2017.
- *Labour Law in the Gig Economy: An International and Comparative Approach*, Asian Law Institute Conference (panel organizer, moderator, and speaker), Manila, The Philippines, May 19, 2017.
- Multiple seminars, workshops, and lectures, Ton Duc Thang University, Ho Chi Minh City, January 9-21, 2017.
- *Resurrecting Labor Law*, Labor Law Group meeting, December 2016.
- *Resurrecting Labor Law*, faculty workshop at University of San Francisco Law School, December 2016.
- Multiple seminars, workshops, and lectures, Northern University of Bangladesh, Dhaka, May 21-25, 2016.
- *Laws on the Books v. Laws on the Ground: Minimum Employment Standards and Concerted Activity in China and the Region*, ABA Midyear Meeting of the International Labor and Employment Law Committee, Hong Kong, May 3, 2016.
- *Social Media and Discrimination Claims*, Arbitrator & Advocate Symposium, Columbus Ohio, April 29, 2016.
- *Specific Challenges for Law School Leaders and the Formation of a Networked Improvement Community*, panelist, International Association of Law Schools Americas Law Deans' Forum, Ponce, Puerto Rico, March 11, 2016.
- *Managing the Right-Sized Law School*, panelist, AALS Annual Conference, New York, January 6, 2016.
- *Experiential Learning in Full-Course Simulations: Labor Law, Inc.*, Colloquium in Scholarship in Employment & Labor Law, Indiana U.-Bloomington Law School, Sept. 11, 2015.
- *Employment Effects of Free Trade Agreements: The U.S. Perspective*, LawAsia Employment Conference, Hanoi, Vietnam, August 14, 2015.
- *Employment Rights of Child Workers and Minors*, panel presentation at Whittier Law School Law Review symposium, November 7, 2014.
- *What Deans Would Tell Newer Teachers – If They Asked*, SEALS panelist, August 5, 2014.
- *Hot Topics: Deans and Directors Roundtable: Reinventing Law School Libraries for a Digital Age*, panel presentation at Association of American Law Libraries Annual Conference, San Antonio, July 13, 2014.
- *Labor Outsourcing in the U.S.*, LawAsia Employment Conference, Siem Reap, Cambodia, May 2013.
- *Amending the U.S. Constitution*, presentation at constitutional law conference at Ho Chi Minh City University of Law, Ho Chi Minh City, Vietnam, August 11, 2012.
- *Resolving American Labor/Employment Disputes Through Mediation*, presentation to conference of the Center for Social and Labor Rights, Moscow, Russia, May 28, 2012.
- 2012 Symposium, Ohio St. J. Disp. Resol., *Using Final-Offer Arbitration to Resolve Public Sector Impasses in Times of Concession Bargaining* (with Michael Carrell), February 17, 2012.
- 2012 Symposium, UNLV L. Rev., *Workplace Populism*, February 24, 2012.
- 2012 Symposium, Penn St. Yearbook on Arbitration and Mediation, *Concepcion and Preemption Under the Federal Arbitration Act*, February 22, 2012 (with Ian Mitchell).
- *Experiential Learning in Full-Course Simulations: Labor Law, Inc.*, presentation at University of Queensland T.C. Beirne School of Law, Brisbane, Australia, September 2, 2011.
- *Ethical Issues in Labor/Employment Arbitration*, presentation at University of Louisville Law School's Warns Labor/Employment Conference, June 24, 2011.
- *Legal Ethics and Attorney-Client Privilege in Cross-Border Labor/Employment Law Work*, presentation at ABA Section of Labor and Employment Law International Section Conference in Berlin, Germany, May 10, 2011.
- *The Employment Law Perspective on Protecting Business Research and Development*, presentation at Monash University conference in Prato, Italy, May 3, 2011.
- 2011 Symposium, Hamline L. Rev., *Defining Independent Contractor Protection Under the Rehabilitation Act*, April 1, 2011.
- 2010 Symposium, Indiana L.J., *The Obama Board: The Future of Board Doctrine on Neutrality Agreements and Card Checks*, November 2010.
- Labor & Employment Law Colloquium, Washington Univ. St. Louis, *An Empirical Snapshot of Labor & Employment Law Faculty*, September 2010.
- *Using Research Assistants Effectively*, Southeastern Association of Law Schools, August 2010.

- *Mediating Employment Disputes*, address to the Industrial Court of Malaysia, July 14, 2010.
- *Resolving Labor/Employment Disputes in the United States*, presentation to faculty and students at Pannasastra University of Cambodia, July 19, 2010.
- *ADR and Labor/Employment Disputes in Malaysia*, presentation to students and faculty of Universiti Teknologi Mara, July 22, 2010.
- *Mediation at the Malaysian Industrial Court & Workplace*, address to the Kuala Lumpur Bar Council, July 22, 2010.
- *Teaching Law through Simulations and Skills Oriented Methods*, presentation to faculty at Monash University – KL, July 23, 2010.
- 2010 National Conference of Law Reviews, *Journal/Author Relations*, Texas Wesleyan School of Law.
- 2010 Americas Regional Congress of Labor and Social Securities Laws, *Report of the United States*, Cartagena, Colombia.
- 2009 AALS Mid-Year Meeting, Workshop on Work Law, *Teaching Work Law Through Simulation and Other Skills-Oriented Methods*.
- 2009 Conference on Proposed Restatement of Employment Law, U.C.-Hastings School of Law, *4.02: Wrongful Discharge in Violation of Public Policy*.
- 2009 ABA Section of Labor & Employment Law, ADR in Labor & Employment Law Committee, Midwinter Meeting, *Due Process Issues in Employment Arbitration*.