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Keeping Up with New Legal Titles; Introduction to Law Firm Practice by Michael Downey

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Keeping Up with New Legal Titles*

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* The works reviewed in this issue were published in 2013 and 2014. If you would like to review books for "Keeping Up with New Legal Titles," please send an e-mail to bkeele@indiana.edu and nsexton@email.unc.edu.

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Baldwin, Peter. *The Copyright Wars: Three Centuries of Trans-Atlantic Battle.* Princeton, N.J.: Princeton University Press, 2014. 535p. $35.

Reviewed by Michael O. Eshleman[*]

¶1 The law disfavors the dead hand of the past throttling the present. That is why there is the rule against perpetuities, and why nearly all states have abolished the entail of property—the bane of Austen's Dashwood and Bennet sisters. Yet in copyright law, the power of the past continues to grow. And the blame for that rests with the people who gave us the metric system and existential angst: the French.

¶2 In this powerful book, Peter Baldwin, a history professor at UCLA, shows how the Romantic veneration of the artist as the lone, tortured genius giving all to his art, a particularly French notion, has led to the endless ratcheting up of copyright protection. Britain's Statute of Anne in 1709 set the term of a copyright at fourteen years, renewable once. The First Congress set America's copyright term at nineteen years and required authors to register to secure the protections of that law.

¶3 Now, from the moment they are inked, virtually every scribble and grocery list is copyrighted for an unbelievable time: the life of the author plus seventy years. If this had been in effect when a young Irving Berlin wrote "Alexander's Ragtime Band" in 1911, that song would be copyrighted until 2059, as Berlin died in 1989 at age 101.

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* © Michael O. Eshleman, 2015. Attorney-at-law, Kings Mills, Ohio.

¶4 English and American courts both long ago rejected the idea of common law copyright. Copyright exists solely as a creature of statute. It is a trade: authors get exclusive rights for a limited time to spur them to create things for the public to enjoy. Instead, it has become, as Macaulay put it, a "tax on readers for the purpose of giving a bounty to writers."[1] Realistically, with a term long exceeding authors' lifetimes, the extra decades of protection mean big corporate interests reap windfalls.

¶5 The most dangerous facet of this European mentality is the concept of moral rights. Among other things, moral rights allow authors—and even their distant descendants—to control their copyrighted works. So in 2001, a great-great-grandson of Victor Hugo went to court in France to stop a proposed sequel to *Les Misérables*.

¶6 Under moral rights, the dead hand is paramount. Nothing ever becomes common property. There is no public domain. Ideas are forever monopolized. Never mind there is nothing new under the sun—as the Preacher put it two millennia ago.[2] Or that the public domain is the soil of creation. Shakespeare appropriated Holinshed's Chronicles, and Rodgers and Hammerstein the memoirs of Anna Leonowens. Moral rights would preclude that. Under a moral rights regime, the successors of a woman who died in 1817 could have suppressed *Death Comes to Pemberley*, *Clueless*, and *Sense and Sensibility and Sea Monsters*.

¶7 Baldwin shows that the Third Reich was an unlikely champion of moral rights and the cult of the heroic author whose work must be protected. For one thing, the Nazis did not like the appropriation of classical music for popular songs—they would have hated Perry Como's "Catch a Falling Star," The Toys' "Lovers' Concerto," and Alan Sherman's "Hello Muddah, Hello Fadduh."

¶8 This powerful book shows how ideas that are antithetical to the Anglo-American legal tradition and the basic purpose of copyright law have become the law of our land, ensnaring today's audiences and creators in the Serbonian bog. These continental creations were imported thanks to the Berne Convention, the multilateral treaty on copyrights. Revisions to the convention increasingly protected more and more things for longer and longer terms, and American corporate interests—particularly Hollywood—finally convinced the U.S. government to sign. Congress, at the behest of the copyright owners, changed American law to conform to the convention. Berne is a shining example of the dangers of multilateral negotiations serving special interests rather than the public interest.

¶9 Baldwin's extensive research in American, French, German, and European Union legal materials is impressive. His book is scholarly and readable. Baldwin is evenhanded and not the least polemical—which makes his story all the more damning. Librarians have rightly opposed the lengthening of copyright terms; for example, AALL filed an amicus brief in the *Eldred v. Ashcroft* case (537 U.S. 186 (2003)) opposing the retroactive extension of copyright terms. Librarians should also be concerned with the threat moral rights pose to free expression and the flow

1. 56 Parl. Deb. (3d ser.) 350 (1841).
2. Ecclesiastes 1:9.

of ideas. This book deserves a wide readership, not just among librarians, but among those who care about corporate control of our cultural heritage.

Beaumont, Elizabeth. The *Civic Constitution: Civic Visions and Struggles in the Path Toward Constitutional Democracy*. New York: Oxford University Press, 2014. 343p. $49.95.

Reviewed by Heather N. Joy[*]

¶10 This is the tale of how ordinary Americans shaped our Constitution. It is not a retelling of moments in court or Congress that precipitated a change in the law, or a simple repetition of well-known history. It is a series of specific historical illustrations providing insight into how citizen participation is at the core of American constitutionalism. It showcases four periods in American history when regular citizens became "civic founders" and fundamentally changed the law of the land.

¶11 Elizabeth Beaumont is a political science professor at the University of Minnesota. She posits that much of the text and meaning of the Constitution emerged through the dialogue and efforts of everyday citizens. While not rejecting the critical role of the framers, instead of spending her pages on that familiar top-down story of constitutional construction, she focuses instead on the experiences of citizens and (at the time of their struggle) noncitizens—the revolutionaries, ratifiers, antifederalists, abolitionists, and suffragists—who rallied together to challenge the most basic tenets of law. Using the lens of the civic constitution, she examines the role of popular constitutionalism in U.S. history.

¶12 Chapter 1 provides an introduction and road map, and highlights the three points Beaumont argues are overlooked in other works on popular constitutionalism: analysis of how civic groups influenced constitutional text defining fundamental rights, developed new concepts and principles of constitutional democracy, and altered norms of citizenship to include expanded use of civil liberties. The rest of the book is divided into two parts, each part focusing on two historical periods of change. The chapters follow an easily digestible formula: an examination of the majority constitutional view, the efforts of civic groups to establish a new perspective on the topic, and a review of any subsequent constitutional alterations.

¶13 Part 1 covers eighteenth-century constitutional construction. Chapter 2 focuses on the Declaration of Independence and state constitutions. Chapter 3 examines the drafting and ratification of the U.S. Constitution and the adoption of the Bill of Rights.

¶14 Part 2 covers reconstructions. Chapter 4 delves into the abolitionists' movement and the subsequent passage of the Thirteenth, Fourteenth, and Fifteenth Amendments. Chapter 5 looks at the suffragists' movement and the subsequent passage of the Nineteenth Amendment. Chapter 6 concludes with questions and a call to consider the rise of "civic founders" in current constitutional struggles.

¶15 The research appears thorough and relies on credible and appropriate resources. Pulling from a vast array of historical documents, Beaumont culls rele-

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vant insights from handbooks, speeches, sermons, newspapers, reports, boycotts, protests, and more, going back in time and diving into the world outside the courtroom and the legislative chambers to highlight the sea of dispute raging in the public sphere among everyday Americans. The notes alone provide fascinating reading, and the references are extensive and valuable to researchers interested in this topic.

¶16 While the content is interesting and the writing relatively straightforward, this is not a book that will keep you up at night, eyes straining, until you reach the last satisfying chapter. It is, however, an excellent resource, providing a worthwhile and well-reasoned perspective contributing to a fuller understanding of American constitutionalism. A valuable addition to the discourse on popular constitutionalism, this title should occupy a place in every academic law library.

Bernstein, Nell. *Burning Down the House: The End of Juvenile Prison*. New York: New Press, 2014. 325p. $26.95.

Reviewed by Maureen Anderson[*]

¶17 Nell Bernstein shines a light on the American juvenile justice system to highlight the flaws that must be changed to save youth offenders. From the outset, Bernstein points out that most offenders are convicted of minor, nonviolent offenses, and pose little danger to those around them; however, what happens to them while incarcerated profoundly changes them and how they view the world. With one in three U.S. schoolchildren arrested before their twenty-third birthdays, Bernstein explains that we are at risk of losing a third of our children. Additionally, once arrested, a high percentage of juveniles are arrested or incarcerated again. *Burning Down the House: The End of Juvenile Prison* will appeal to anyone who interacts with at-risk youth or understands the basic needs of adolescents. The book provides critical insight into the need for change; Bernstein concludes that the idea of "a kinder, gentler prison" is unattainable (p.228).

¶18 More than 70,000 adolescents are confined in juvenile detention centers.[3] While incarcerated, many of these children live in fear of being raped, beaten, or deprived of the basic necessities of life. Ironically, those responsible for protecting and monitoring these adolescent offenders are often responsible for the most dreadful offenses against them. As a nation, we spend nearly ten times more to imprison a child than we do to educate one. In *Burning Down the House*, Bernstein sets out to explain what life is like for a juvenile in these facilities. A passionate advocate for youth, she captures the struggles of these young offenders and makes readers question whether the time has come to eradicate juvenile prisons.

¶19 *Burning Down the House* exposes the sad reality for adolescents in juvenile prisons. The book is divided into two parts. Bernstein begins part 1 by telling the stories of former prisoners who suffered at the hands of their adult overseers. She

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* © Maureen Anderson, 2015. Associate Professor and Assistant Director for Public Relations, University of Dayton School of Law, Dayton, Ohio.

3. U.S. Department of Justice, Office of Juvenile Justice and Delinquency Prevention, Statistical Briefing Book, http://www.ojjdp.gov/ojstatbb/corrections/index.html (last visited May 29, 2015).

moves on to document the history of juvenile prisons beginning in the nineteenth century and continues with the rise of the notion of the "super-predator" in the late 1980s and early 1990s. She explains that, during that time period, more stringent laws were enacted, and there was a movement away from the notion of rehabilitative justice. Bernstein rounds out part 1 with a disturbing look at the sexual abuse, as well as physical and emotional traumas, these children suffer while imprisoned.

¶20 In part 2, Bernstein offers hope. She interviews forward-thinking prison administrators who are building "a better mousetrap" (p.11). For example, Missouri has successfully run small, therapeutic facilities for thirty years and acts as a model for other states. Although not a new concept, there is a definite effort to create a therapeutic prison that seeks to treat adolescents rather than rehabilitate or punish them. Bernstein crossed the country in her quest for answers, concluding that no matter how much effort goes into creating better juvenile prisons, more profound reform is still necessary. It is a fundamental fact that children need security and connection, coupled with a sense of independence. Current juvenile prisons meet none of these needs. While juvenile prisons in New York, Missouri, and California are making efforts to change the model, abuses still occur. Bernstein constantly questions whether it is time to end juvenile prisons and spend the money in more productive ways.

¶21 *Burning Down the House* is a gripping and, at times, uncomfortable book to read. The juvenile prison system is damaged; whether it can be fixed remains to be seen. Bernstein is optimistic that reforms are addressing some of the problems, but ultimately, the experience for children is so traumatizing during a critical time in their development that more needs to be done. She closes the book with an open letter from a young man who has been behind bars for more than seven years. He acknowledges his part in his predicament, but wants the world to know that he is suffering. Hope is all he has.

¶22 *Burning Down the House* is highly recommended for academic and public libraries. It provides excellent case studies, is well researched, and undeniably portrays Bernstein's passion. She is a persuasive voice for a segment of society that needs help. Bernstein is an advocate for the troubled youth in America who have made bad choices.

Bradshaw, Brad. *The Science of Persuasion: A Litigator's Guide to Juror Decision-Making, Second Edition.* Chicago: American Bar Association, 2014. 338p. $99.95.

Reviewed by Eve Ross[*]

¶23 Brad Bradshaw has a Ph.D. in experimental psychology and more than a decade of experience as a litigation consultant. The American Bar Association published the first edition of this book in 2011. Three years later, the second edition includes updated fact patterns and insights from more recent psychological studies.

¶24 The subtitle, *A Litigator's Guide to Juror Decision-Making*, accurately describes Bradshaw's work. He examines juror persuasion in the context of civil

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litigation, with detailed examples based on contract litigation, medical malpractice, premises liability, and product liability. This focus distinguishes the book from Dennis J. Devine's *Jury Decision Making: The State of the Science*, which deals mostly with juries in criminal cases, and from Jennifer K. Robbennolt and Jean R. Sternlight's *Psychology for Lawyers: Understanding the Human Factors in Negotiation, Litigation, and Decision Making*, which applies psychological principles to numerous areas of interest to lawyers, including ethics and personal happiness, not just litigation.

¶25 The title, *The Science of Persuasion*, might seem to imply in-depth analysis of the available psychological studies, but Bradshaw actually describes most of the experiments he mentions in a paragraph or less or, in some cases, only by analogy. He does not mention their methodological or other weaknesses and does not provide full citations—just author names. This approach makes for easy reading and intuitive, memorable takeaways. It is ideal for time-pressed practitioners who want to quickly understand and apply insights from the studies, and who are not inclined to challenge the quality of the research or Bradshaw's interpretation of it. For academic work, a better choice might be Jessica D. Findley and Bruce D. Sales's *The Science of Attorney Advocacy: How Courtroom Behavior Affects Jury Decision Making*, which takes a more critical stance and includes a bibliography.

¶26 After an introductory chapter briefly dealing with such principles as credibility, likeability, and stereotypes, chapters 2 through 8 are sequenced in the typical order of events for litigation: trial preparation, witness preparation, voir dire, opening statements, evidence, closing arguments, and jury deliberations. This organizational structure enables a practicing lawyer who wants advice on how to conduct whatever is coming up next in an ongoing case to read just the relevant chapter. It may also help law professors identify single chapters for use as supplementary texts based on their applicability to a course on evidence, damages, or trial advocacy.

¶27 The book's examples are its strongest benefit for new litigators and law students preparing for a litigation practice. Chapter 9 provides two hypotheticals followed by examples of jury questionnaires, voir dire questions, opening statements, and closing arguments tailored to each situation from both the plaintiff's and the defendant's sides. Each of the three appendixes provides a detailed hypothetical, including case overview, procedural posture, evidence (such as deposition summaries and document exhibits), and jury instructions. Applying the book's recommendations to these last three hypotheticals to create suitable jury selection materials and courtroom arguments is left as an exercise for readers.

¶28 The book appears tailored primarily to the practicing trial lawyer who is under extreme time pressure and already has a solid understanding of jury selection procedures. For example, one timesaver for the hurried reader is the frequent use of callout boxes, which add up to an easily skimmed overview of the main points and key examples. The book is also recommended for law students, specifically those who have already completed their civil procedure coursework (terms such as "peremptory challenges" and "voir dire" are not defined in the book).

¶29 This book is recommended for private law libraries in civil litigation firms. It is also recommended for academic law libraries at law schools preparing students for litigation practice.

Butler, Rebecca P. *Copyright for Academic Librarians and Professionals.* Chicago: ALA Editions, 2014. 296p. $82.

Reviewed by Victoria Szymczak[*]

¶30 This ALA book on copyright law presents a practical, pared-down approach to complicated compliance issues faced by academic institutions. Rebecca P. Butler's fourth book on copyright law would benefit copyright officers at colleges and universities, technologists or media specialists, as well as teaching faculty who lack a specialization in this field of law. *Copyright for Academic Librarians and Professionals* will appeal generally to academic librarians and will serve as a fine complement for academic law librarian specialists who may typically use resources that have more nuanced discussions of copyright law.

¶31 Butler divides this book into two parts. Part 1 is a fifty-eight-page introduction to copyright law that reviews the core areas in which academic librarians routinely become involved. This includes an introduction to fair use, obtaining permissions, the public domain, and a review of licensing. Part 2 consists of eight chapters devoted to the application of copyright law to specific situations. For example, chapter 9 deals with copyright law as it applies in the context of computer software, handheld applications, and mobile technologies. The book concludes with a chapter that places copyright law in the context of Butler's discussion and provides a glossary of terms and reprints of important copyright laws for easy reference while reading the text. Readers will enjoy the pattern of the book, which repeats in each chapter, though it should be noted that the text is not supported through the use of citations as we expect to see in law-related literature, nor is there a discussion of copyright law development. Rather, the author draws on her vast experience as an academic working with copyright law to share her knowledge; she provides references at the end of each chapter. Butler's experience is reflected in how she has organized her chapters and her task-based approach to copyright law in academic facilities.

¶32 Part 1 provides clear, basic information about fair use, licensing, and obtaining permissions from copyright holders. Most law librarians are well informed on these subjects, but the chapters provide a good review and place the law in the context of a college or university setting. The elements of the law are reviewed with some historical references. Very useful are Butler's tables and charts listing fair use guidelines for lending by medium type, and the identification of works eligible for copyright, organized by format. The materials presented in part 1 are uncomplicated by the myriad situations faced by academics when applying a copyright analysis in an educational environment. Butler leaves the complicated issues for part 2.

¶33 Chapters in part 2 begin with a paragraph or two defining the subject under discussion. The author then proceeds to explore the topic through frequently asked questions. The questions and answers were compiled from the many workshops, presentations, and classes Butler has conducted. Answers that involve a more compli-

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[*] © Victoria Szymczak, 2015. Director of the Law Library and Associate Professor of Law, University of Hawai'i William S. Richardson School of Law, Honolulu, Hawai'i.

cated work flow than others are supplemented with a flowchart. In fact, there are one hundred flowcharts sprinkled throughout chapters 6 through 13. Flowchart fans like me will love this feature of Butler's publication; however, while the Q&A approach coupled with flowcharts is satisfying at a basic level, I found myself looking for more substantive information about copyright law when reading through the chapters.

¶34 Librarians with a formal legal education will likely find distinctions in the application of the law that are not discussed in the book, or they may hunger for more historical detail that might influence copyright law interpretation. In this regard, law librarians would be better served by *The Librarian's Copyright Companion, Second Edition*, or, more broadly, by a standard copyright law treatise. For those less familiar with the copyright laws but interested in more detailed background that addresses the broader audience of educators, I would recommend Kenneth D. Crews's *Copyright Law for Librarians and Educators, Third Edition*. For example, if you want to read a discussion of the Digital Millennium Copyright Act (DMCA) as it relates to libraries, both of the alternative texts I recommend would be a better choice. However, if you want to see how the DMCA was applied in a specific situation, Butler's book would be the text of choice.

¶35 Butler's contribution to the select works on copyright in academic libraries provides unique content, both in terms of presentation and substance. This is a handy desk reference for those of us who are not frequent readers of material on copyright but are, nonetheless, responsible for administering copyright compliance at some level. The splendid flowcharts allow you to move much more quickly through the steps of a copyright analysis. Butler addresses cutting-edge topics for libraries like mobile technologies and multimedia formats at lending institutions. She also provides guidance at the international level, which is rare in the U.S. literature on copyright in libraries or academic institutions.

¶36 *Copyright for Academic Librarians and Professionals* is not an expansive text on copyright law, but Butler's real-world approach to copyright compliance for academics makes this publication worthy of a space on your professional reading shelf.

Chechi, Alessandro. *The Settlement of International Cultural Heritage Disputes*. New York: Oxford University Press, 2014. 343p. $135.

*Reviewed by Taryn L. Rucinski**

¶37 In the fascinating but confusing world of cultural heritage law, what do Parthenon Marbles, Holocaust artwork, and Maöri funerary remains have in common? Each has been the subject of significant international litigation resulting in a fragmentary and largely unsatisfying patchwork of litigation decisions, arbitration orders, and broken covenants. Drawing on interdisciplinary insights, *The Settlement of International Cultural Heritage Disputes* by Alessandro Chechi attempts to provide a solution to this ad hoc legal jumble by systematically reviewing international disputes related to tangible cultural property and then synthesizing a new group of international legal norms.

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¶38 A part of Oxford University Press's Cultural Heritage Law and Policy Series, this text is divided into six parts. The introduction in part 1 sets forth the structure and scope of the book, and articulates the basic nature of cultural heritage law disputes. Part 2 provides readers with background information, including basic definitions of cultural property and the sources and typology of the different types of cultural heritage disputes that can and do arise. In part 3, the author scans the existing ad hoc legal frameworks available for dispute resolution and the mechanisms by which disputes can be brought at the international and domestic levels. This section should be of particular interest to scholars because in reviewing the "legal means" of dispute resolution (p.135) the author explores the benefits, limits, and opportunities to be had by way of various international courts and tribunals. This section also details opportunities for institutionalized arbitration as well as steps for avoiding disputes.

¶39 The next two chapters are more theoretical in nature and advance the author's thesis that changes in the existing cultural heritage dispute resolution milieu have the potential to "enhance the safeguarding of cultural heritage and the legal framework regulating it" (p.4). In part 4, Chechi first proposes the establishment of an International Cultural Heritage Court and then dismisses it as too speculative, in favor of strengthening existing dispute resolution forums through a process of "cross-fertilization," or the close information-sharing interactions of otherwise disparate adjudicators (p.221). Part 5 then takes readers on a bit of a proverbial rollercoaster as the author leads them first from the networking components of "cross-fertilization" (p.8) to synthesizing general principles of international law, and ultimately toward the proposal of a new *lex culturalis* (pp.246–47) or the emergence of a separate and distinct group of "transnational cultural heritage law" principles (p.246). While interesting, this chapter feels rushed and not as connected to the rest of the work. This last section is then followed by a brief conclusion in part 6.

¶40 This is the first major work by Chechi, a researcher and teaching assistant at the Art-Law Center, Faculty of Law, at the University of Geneva. While the author has an approachable style and does an extremely thorough job of researching and annotating the text, this is probably the least valuable of the three works available so far in the Cultural Heritage Law and Policy Series. Of note to researchers, *The Settlement of International Cultural Heritage Disputes* includes a table of cases, a table of instruments, a list of abbreviations, a bibliography, and an index. The text is supported by footnotes throughout. Chechi's work is recommended primarily for academic law libraries and graduate-level interdisciplinary libraries that offer cultural heritage law or historic preservation coursework, or concentrate in art and museum law. Libraries that have an international or environmental specialty may also be interested in this text.

Citron, Danielle Keats. *Hate Crimes in Cyberspace.* Cambridge, Mass.: Harvard University Press, 2014. 343p. $29.95.

Reviewed by Susan E. Vaughn[*]

¶41 Jennifer Lawrence characterized the leak of nude photos of her and other celebrities as a "sex crime."[4] Her response to the violation and the very public vic-

* © Susan Vaughn, 2015. Legal Information Librarian and Lecturer in Law, Boston College Law Library, Boston College, Newton, Massachusetts.

tim-blaming that ensued after the leak turned a harsh spotlight on this particular online hate crime. Lawrence's celebrity status ensured the high-profile reverberations of this leak, but it also engendered a quick response by law enforcement officials to the criminal behavior. According to Danielle Keats Citron, many other (overwhelmingly female) victims do not receive such quick redress to similarly hateful acts. In her timely book, *Hate Crimes in Cyberspace*, Citron presents an impassioned, well-reasoned, and meticulously documented guide for how society and the legal system can more effectively respond to such hate crimes.

¶42 Citron approaches the topic with the expertise of a trained litigator, presenting a clear outline of the issues and her arguments in the thirty-page introduction. She divides the book into two main parts: "Understanding Cyber Harassment" and "Moving Forward." In the first part, Citron paints a clear picture of the current problem, using victim narratives, social science research, and documentation of social attitudes toward cyber harassment. The narratives of the Tech Blogger, the Law Student, and the Revenge Porn Victim not only personalize the issues for readers, their stories also demonstrate the inadequacy of the current laws. The social science research presented demonstrates how certain aspects of an online environment can exacerbate the problems of hate crimes, such as broad dissemination and the difficulty of removing harassing speech from the Internet. While exploring the social response to such crimes, such as blaming the victim and trivializing the harassment, Citron also draws parallels to similar social attitudes that have been addressed in part by increased regulation, such as sexual harassment at work and domestic violence at home. In this part of the book, the author documents the disparate impact of cyberstalking on women and the potential impacts this can have on women's ability to participate equally in cyberspace.

¶43 In the second part, Citron tackles many individual remedies and outlines how each could be employed to address cyber hate crimes. She details current state and federal laws, both criminal and civil, that address such crimes. Drawing again on the victim narratives, she shows how these existing legal remedies have often proven inadequate due to shortcomings in the laws themselves or lack of serious prosecution. Citron also expands on how civil rights remedies could and should be used to ensure equality for women in cyberspace and address cyber hate crimes. Examples of how to strengthen existing laws are proposed, including draft legislation and citations to model state laws. For example, Citron discusses New Jersey's law criminalizing the disclosure of a person's sexually explicit photos without that person's consent.[5] She offers practical as well as legal solutions, such as conditioning funding on training initiatives for law enforcement officers on existing laws and the forensic science skills needed to root out cybercrimes.

¶44 Citron moves beyond legal solutions that seek to criminalize behavior of harassers by exploring ways to deter unwanted conduct of service providers and employers. She discusses the difficult but not impossible task of reaching Internet service providers (ISPs) given the immunity often granted under section 230 of the Communications Decency Act. Her proposal would remove such immunity for a

4. Sam Kashner, *Both Huntress and Prey*, VANITY FAIR, Nov. 2014, at 154.
5. N.J. STAT. § 2C:14-9 (LEXIS, current through 2014).

narrow category of ISPs, such as sites that make money from cyberstalking or revenge porn.

¶45 Citron counters potential First Amendment challenges in a separate chapter. She argues that regulation of cyber hate speech should be subject to less rigorous scrutiny as low-value speech, which includes, for example, speech that is deemed to be a true threat or that facilitates criminal action. Citron offers some practical advice to companies, parents, and schools on how they can help fight cyber hate crime.

¶46 *Hate Crimes in Cyberspace* provides the most complete coverage to date of the social underpinning, legal history, current laws, and potential legal solutions to such crimes. Citron's treatment of the issues is unique as it views the current problems of cyberstalking and revenge porn through the lens of historic civil rights issues. Although laws and legal issues are covered in detail, Citron is careful to describe legal concepts in terms accessible to a nonlaw audience. For example, a section covering defamation is titled "Lies in Cyberspace." It is a must for any academic law library but also is appropriate for both academic and public libraries.

Day, Kate Nace. *A Civil Remedy*. Boston: Film and Law Productions, 2014. 23 min. $195.

Reviewed by Brendan E. Starkey[*]

¶47 Sex trafficking, like other forms of human trafficking, is itself notoriously difficult to track. A "conservative estimate" from the International Labour Organization puts the number of victims worldwide at 4.5 million people.[6] Many suspect the number is much higher, but as a report from the U.S. Department of State explains, "trafficking is a clandestine crime and few victims and survivors come forward for fear of retaliation, shame, or lack of understanding of what is happening to them."[7] A presidential task force looking to improve understanding of the problem domestically concluded that "[d]ue to the hidden and complex nature of the crime, the full scope of human trafficking in the United States is unknown."[8]

¶48 Unfortunately, the same factors that make sex trafficking difficult to track—its underground nature and underreporting by victims and others—may lead many to underestimate the full scope of the problem and its prevalence in their own communities. According to an FBI bulletin on the subject,

> [t]he terms human trafficking and sex slavery usually conjure up images of young girls beaten and abused in faraway places, like Eastern Europe, Asia, or Africa. Actually, human

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* © Brendan E. Starkey, 2015. Associate Director for Library Services, Fowler School of Law, Chapman University, Orange, California.

6. Int'l Labour Org., Special Action Programme to Combat Forced Labour, ILO Global Estimate of Forced Labour: Results and Methodology 13 (2012), *available at* http://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_182004.pdf.

7. U.S. Department of State, Trafficking in Persons Report 30 (2014), *available at* http://www.state.gov/j/tip/rls/tiprpt/2014/index.htm.

8. President's Interagency Task Force to Monitor and Combat Trafficking in Persons, Federal Strategic Action Plan on Services for Victims of Human Trafficking in the United States 2013–2017, at 18 (2014).

> sex trafficking and sex slavery happen locally in cities and towns, both large and small, throughout the United States, right in citizens' backyards.[9]

¶49 As one trafficking survivor puts it,

> When we hear the words "sex trafficking," as Americans we immediately think of women and children overseas who are being forced into the sex trade or who are brought into the United States for the purpose of sexual exploitation. We don't usually think closer to home—Americans trafficked by Americans.[10]

¶50 *A Civil Remedy* will change that. The film tells the story of Danielle, a sex trafficking survivor. She came to Boston at age 17 to study social work, but her life unexpectedly took a dark turn. At a party she met an older man who lavished her with praise and gifts. They began what Danielle thought was a romantic relationship until the man suddenly became violent. She came to believe that he was "capable of anything" (3:53). Through fear and violence, this trafficker forced Danielle into a life of prostitution on the streets of Boston. There, her life was anything but what the popular imagination often holds. She was not in it for the money—he kept it all. She was not a product of her own agency—she was beaten into submission. She did not do it because she liked sex—she was raped constantly.

¶51 Danielle escaped after two years, but the experience caused lasting damage. At first, she did not even think of herself as a victim of sex trafficking. In her words, she was "a prostitute" (5:14). No doubt many who paid for her services, saw her on the streets, or arrested or prosecuted her thought the same. The film elaborates on the results of this perception. As girls and women enter the criminal justice system, they are treated as part of the problem, not victims of it. According to the film, seventy percent of arrests in the United States for sex trafficking are of prostitutes, while only twenty percent are of pimps and ten percent of johns (9:36). Worse, when victims are finally free, they are left to fend for themselves while the traffickers often keep the proceeds of the crime. The film highlights a growing movement to correct this problem by moving accountability from the victims of sex trafficking to the perpetrators. The goal is not simply to prosecute traffickers criminally but also to hold them financially accountable. The film gets its name from civil remedies for victims in federal law and the laws of a growing number of states.[11] The federal act provides money damages against perpetrators and third-party profiteers such as hotels and websites.[12] According to the film, victims may win restitution of a defendant's gains, plus compensatory damages for the full amount of their losses, including medical and psychological care, physical rehabilitation, housing, lost income, and attorneys' fees. Beyond that, giving victims a day in court provides

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9. Amanda Walker-Rodriguez & Rodney Hill, *Human Sex Trafficking*, FBI LAW ENFORCEMENT BULL., Mar. 2011, http://www.fbi.gov/stats-services/publications/law-enforcement-bulletin/march_2011/human_sex_trafficking.

10. Tina Frundt, *Enslaved in America: Sex Trafficking in the United States*, WOMEN'S FUNDING NETWORK, http://www.womensfundingnetwork.org/enslaved-in-america-sex-trafficking-in-the-united-states/ (last visited May 29, 2015).

11. *See* 18 U.S.C. § 1595 (2014); *Civil Remedy*, POLARIS PROJECT, http://www.polarisproject.org/what-we-do/policy-advocacy/assisting-victims/civil-remedy (last visited May 29, 2015).

12. *See* 18 U.S.C. § 1595(a).

another benefit. As author and feminist Gloria Steinem says in the film, if the victim's story is presented "in court, and proven, then it is accepted in society and begins to change societal values" (17:21).

¶52 *A Civil Remedy* is a film by Kate Nace Day, a professor of law at Suffolk University Law School and cofounder of Film and Law Productions, which aims to present "stories that bring us back from law's abstractions to the real."[13] They have succeeded with this film, which brings the shadowy world of domestic sex trafficking into the light and presents a way forward for victims and society. It is recommended for collections in civil rights, criminology, law and society, and women and the law. The film can be purchased through the company's website at http://www.filmandlaw.com/purchase.html.

Douglas, Roger. *Law, Liberty, and the Pursuit of Terrorism.* Ann Arbor: University of Michigan Press, 2014. 320p. $75.

*Reviewed by Kerry L. Lohmeier**

¶53 September 11, 2001, changed almost everyone's familiarity with terrorism and the legal repercussions stemming from that day. In *Law, Liberty, and the Pursuit of Terrorism*, Roger Douglas compares counterterrorism laws in the United States with those in the United Kingdom, Canada, Australia, and New Zealand. The book does a good job of tying laws and events together to lead to a greater understanding of how terrorism laws came into being both before and after 9/11. Some of the conclusions may surprise readers, for instance, that the expanded laws of the United States were only catching up to some of the laws already passed in other countries.

¶54 The book is well researched, relying on a mix of data including poll data, primary law, secondary sources, and news accounts to explore the legislative and judicial responses to terrorism in the five countries. Douglas reviews the state of the law before and after 9/11 to provide a backdrop to examine the U.S. government's responses to 9/11 and to provide a better understanding of laws aimed at reducing terrorism. In looking at the responses, he examines institutions, prior beliefs, and the amount of authority requested. One conclusion reached is that when responses to terrorism are excessive, the government is acting outside of the law. One interesting area of inquiry that Douglas sets up in the introduction and weaves throughout the book is the idea of a country that acted in haste, perhaps intending to have the law enacted for only a relatively short period of time. Douglas examines 9/11 responses to see whether any of the five countries reacted in such haste. Douglas pulls together a variety of sources to show that some laws that appear hastily passed were actually modeled around another country's laws or versions of laws previously debated. Additionally, he provides an example from Canada to show that thoroughness and speed can go hand in hand.

¶55 The introduction provides the road map to the book, outlining the objectives and conclusions. The opening two chapters are informative and quickly cov-

13. *About*, FILM AND LAW PRODUCTIONS, http://www.filmandlaw.com/about.html (last visited May 29, 2015).

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ered. Chapter 1 briefly outlines recent terrorist attacks. Poll data of citizen perceptions of the probability of a terrorist attack, as well as probability calculations in chapter 1, lead to a brief discussion of possible responses in chapter 2. Beginning with chapter 3, the book gets into the law regarding terrorism by first looking at definitions of terrorism in each of the countries and in international law, moving on to surveillance, court cases and the use of classified information, criminal and economic sanctions against terrorists, and offenses related to terrorism, detention, and torture. Douglas does a nice job of briefly connecting the political backdrop in each country to the law and the government response while looking at issues of haste, national differences, and the dynamics as laws both constrain and empower while being shaped by circumstances. The book's broad-based approach contributes to its breadth but not always its depth of treatment. But the work has ample references to primary law, scholarly works, poll data, and other materials. Often, when I wished there were more details and background information, a reference to a more scholarly work was provided.

¶56 Each chapter begins with a relevant quote or two, like Donald Rumsfeld's famous "known knowns" statement, and ends with a short conclusion to tie the themes of the chapter together. Each country is covered in varying order by subtopic within a chapter. At times, most of the information is related to the United States with only a brief reference to one of the other countries. There were a few instances when it seemed a little disjointed to have several pages on the United States broken up by a short paragraph on the United Kingdom or one of the other countries. However, it made sense from a topical standpoint.

¶57 The book is a good addition to an academic law library because of its comparative nature and Douglas's wide-ranging coverage of the topic. It is a good starting point for someone researching the law of any of the five countries. Additionally, it is a fairly quick, informative, and interesting read. The book has been made open access through Knowledge Unlatched funding and is thus available for download at http://oapen.org/search?identifier=483170.

Downey, Michael. *Introduction to Law Firm Practice.* Chicago: American Bar Association, 2014. 248p. $79.95.

Reviewed by Christine Iaconeta[*]

¶58 The inner workings of a law firm is unknown territory for new lawyers. In fact, it is only recently that law schools have begun to teach classes that discuss law firm management, running a solo practice, or technology used by practicing attorneys. Michael Downey's *Introduction to Law Firm Practice* provides an in-depth examination of the structure and management of today's law firms, as well as many other aspects of law firm practice, including business development strategies, risk management, and professional responsibility, to name a few.

¶59 Before delving into the text, it is important to note the author's background, experience, and stated goals for his book. Downey, a self-proclaimed "law practice

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management junkie" (p.xvii), has significant law practice experience. He has worked for four firms of varying sizes. He has a graduate certificate in law firm management from George Washington University and advises lawyers, accountants, and their firms on issues including ethics, operations, and risk management. In writing this book, Downey intended to reveal how law firms work to help newer entrants better understand the private law firm environment, leading to greater satisfaction and happiness in a law firm. Although it is difficult to determine whether this book has led to greater attorney satisfaction and happiness, it is easy to see that Downey has written a book that provides readers with a detailed explanation of how law firms operate, how they are managed, how the business is developed, and how revenue is generated.

¶60 The book begins with several chapters devoted to describing the various law firm structures. Chapter 1 gives a brief history of law firm creation, beginning with apprenticeships and then describing the Cravath system, a system that forgoes apprenticeship and relies on recruiting young law students out of law school. Once they become members of the firm, these young lawyers are not expected to develop their own clients but to work on matters for the firm's existing clients. Some will be asked to join the partnership after a period of time and then assume an ownership interest in the firm. This method of law firm development is the one with which most law students are familiar. Downey also discusses virtual law firms, office sharing arrangements, and referral arrangements outside the law firm.

¶61 In chapters 5 through 13, Downey begins an in-depth discussion of various partnership and law firm governance arrangements used to run the modern law firm. Downey provides extensive explanations of what it means to hold various positions in the firm, including what it means to be an equity partner, a nonequity partner, a managing partner, an associate, a senior associate, and of counsel. In addition, Downey provides an excellent explanation of what is expected of nonlawyer personnel who work at the firm. This discussion, coupled with the previous chapters on law firm structures, provides readers with a solid understanding of the various governance structures used to run the modern law firm and the duties and expectations of law firm membership.

¶62 In chapter 14, Downey provides readers with a review problem dealing with law firm partnership. The chapter is designed to test readers' understanding of the material in the previous chapters pertaining to law firm partnership. Readers are asked to determine who should be made an equity partner of the XYZ Law Firm and which partners should be deequitized. There are several other problem-based chapters that relate to other topics discussed in the book, including a problem that asks readers to design a law firm practice using a form provided by the author. This problem helps assess the topics discussed in chapters 15 to 21, including the market for legal services, types of law practices, how fees are assessed, other sources of firm revenue, firm profitability, and client and matter profitability.

¶63 The important topics of law firm compensation, intake of a client matter (including conflict checks), time billing entries (with examples provided), managing client work, pro bono work, business development, retaining existing clients, managing client relationships, firm culture, risk management, and professional ethics all have dedicated chapters. Scattered throughout these chapters are more problems readers can use to assess their understanding of the material.

¶64 *Introduction to Law Firm Practice* provides an in-depth discussion of what every new lawyer needs to know about the structure, governance, and operation of a law firm. This is an excellent book that should be in every academic law library collection and in every law school career services office. Furthermore, this is also an excellent text for courses on law firm practice and law firm management. Downey's extensive knowledge on the topic comes through in his thorough discussion of the many topics included in the text. The problems provided in the book are an excellent addition and a great way to assess students' understanding of the material. The only missing component for those wishing to use this book for a course is a teacher's manual, either in print or online.

Easton, Susan. *Silence and Confessions: The Suspect as the Source of Evidence.* New York: Palgrave Macmillan, 2014. 280p. $105.

Reviewed by Mary G. Thompson[*]

¶65 In the United States, the suspect's right to silence is enshrined in the Fifth Amendment. Following *Miranda v. Arizona*,[14] American law enforcement personnel must give suspects warnings during custodial interrogation and stop all questioning under certain circumstances. American prosecutors take for granted that they may never comment on a defendant's silence without risk of losing the conviction. Protections for suspects in the United Kingdom differ in ways that most American lawyers will find surprising.

¶66 In *Silence and Confessions: The Suspect as a Source of Evidence*, Susan Easton, Reader in Law and Director of the Criminal Justice Research Centre at Brunel Law School, U.K., explores the right to silence in the United Kingdom, tracks recent developments that have narrowed that right, and uses social science research to discuss the implications of various police, court, and legislative practices. Easton discusses in detail the circumstances under which U.K. lawyers may comment on a suspect's silence and when silence may be used as evidence of guilt despite the technical existence of a right against self-incrimination. She then discusses the right to silence in the context of international treaties and provides a discussion of both U.K. and U.S. law related to the conduct of interrogations. Her discussion includes the treatment of physical evidence taken from suspects, such as DNA and blood, as well as documents and other nonspeech evidence.

¶67 The section of most interest to U.S. readers will likely be the chapter on false confessions. Easton carefully chronicles the relevant social science research and describes the prevalence of false confessions and the circumstances that are most likely to produce them. She describes the classes of particularly vulnerable suspects (such as minors and those with low IQs or education), the perils of lengthy interrogations, and the surprising failure of cautions such as *Miranda* warnings to discourage suspects from speaking. Easton details fascinating research on the types of false confessions (voluntary, coerced-compliant, and coerced-internalized) and elucidates the reasons why even people who do not fall into particularly vulnerable categories may confess falsely under stressful conditions. The chapter also includes

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14. 384 U.S. 436 (1966).

related issues that may lead to unfair convictions, such as poor expert witnesses and faulty eyewitness testimony, and describes the problems that follow from overreliance on confession evidence, such as the failure of police to investigate alternative suspects or case theories.

¶68 Finally, Easton discusses problems specific to policing ethnic and religious minorities and terrorism suspects, including the weakening of the right to silence (among other rights) in terrorism cases and related issues specific to Northern Ireland. She concludes with a discussion of current proposals for requiring various degrees of corroboration for the admittance of confession evidence.

¶69 Although *Silence and Confessions* mainly focuses on U.K. law, there is much for U.S. readers. The comparison of U.K. and U.S. approaches, as well as the illuminating discussion of international human rights standards, can provide important insights into the course to be followed here in the United States. Furthermore, much of the social science research Easton cites is generally applicable, especially with regard to false confessions. The book provides complete tables of statutes and cases cited, as well as an extensive bibliography. I would recommend this book for major criminal or comparative law collections.

Epstein, Lee, and Andrew D. Martin. *An Introduction to Empirical Legal Research.* New York: Oxford University Press, 2014. 324p. $35.

*Reviewed by Stacy F. Posillico**

¶70 The title *An Introduction to Empirical Legal Research* suggests a bland and boring introduction to statistics that one might be assigned for a required course. However, this work defies its title and manages to entertain as well as educate. By the time readers reach its conclusion, it will be clear that this book is not merely a primer on statistical research, although there is much of that to be found. At its heart, this book is a call to action for legal scholars, judges, lawyers, and law students to develop a deeper understanding of empirical research and to produce a stronger body of work that can positively affect real change within our governmental policies and transform our legislative and judicial processes.

¶71 Lee Epstein and Andrew D. Martin are not coy about their objective in this regard. "[L]egal scholars (perhaps more than most others) hope to affect the development of law and policy. We certainly do. We want judges, lawyers, and policy makers to read and understand our work. The problem is that these people often lack any training in empirical methods and so have trouble translating the results into meaningful information" (p.15). This book strives to rise above the typical statistics textbook by encouraging its readers to join in the authors' belief that "more and better empirical research will lead to substantial improvements in legal scholarship, judicial opinions, and public policy" (p.294). This is not a textbook. This is call for change in the world of empirical legal research.

¶72 The book is divided into four parts that address designing research, collecting and coding data, analyzing data, and communicating data and results in turn.

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However, it is delivered with witty prose and a conversational style so that one almost feels like the book could be a transcript of an empirical legal research discussion over a cup (or four) of coffee with the authors.

¶73 Part 1 imparts lessons on how one develops an empirical research question, with an emphasis on following scientific procedure as best as one can, while also acknowledging the limits of the scientific method in the social sciences. Readers are also introduced to the world of empirical research and the multitude of statistical databases that exist to assist the novice. A companion website to this book (http://empiricallegalresearch.org/) is also available. The message is clear: empirical legal researchers do not need to reinvent the wheel, but they must pay attention to what has been done already and assess whether their intended research addresses questions that, once answered, will be a benefit to the legal community and be a worthy addition to knowledge about the real world. What one researches matters as much as, or even more than, how one does that research. Interspersed in this information are folksy-sounding bits of advice, such as, "[A]s it turns out, asking someone to identify his or her motive is one of the worst methods of measuring motive" (p.56), and "[T]he quickest way to get a biased response is to ask people" (p.78).

¶74 When discussing the proper methods and manner of collecting and coding data in part 2, the authors weave real-world experience into their instruction. The examples they use to explain complex terms are ones to which any reader can easily relate. They introduce readers to concepts, methods, and databases used by empirical researchers in other fields, and gently guide readers into understanding that empirical legal research will be improved, study by study, if legal researchers follow the lessons learned and best practices developed over time in these other fields. Furthermore, in showing how it is done, readers learn to be skeptical of studies that do not follow such best practices. In other words, now you will know a bad study when you see it.

¶75 At times, the prose style is a bit jarring. Certain key statistical terms are defined within the text so conversationally that, if you are not familiar with statistics, you might miss how important they are to understand. Part 3 suffers from this, and the attempt to colloquially instruct readers concerning computations of sample standard deviations and p-values, null hypothesis testing, two-sample t-tests, regression analysis, and the like may lose all but the most ardent of students. The authors know this, though, for they conclude, "We could go on but we're sure you get the drift" (p.220).

¶76 In part 4, however, the text comes alive. The topic of communicating results effectively is what raises the most passion in the authors, and it shows. "This is fun stuff. You'll see" (p.228). Their admonitions to stop using pie charts, cross-tabs, and tables are supported with many examples of how to present results much more effectively. The authors envision a movement to strengthen empirical legal research and to make the case that, if legal researchers are going to perform empirical studies, they had better do so in a way that makes their work meaningful and inviting to readers who do not have a background in statistics. Otherwise, it is almost not worth doing.

¶77 Overall, this book is a worthy addition to any law library and should be encouraged reading for legal scholars, jurists, and government policymakers, as well

as required for law students working on their advanced legal writing projects or as research assistants. As the authors demonstrate (p.292), Judge Richard A. Posner gets it (see *ATA Airlines v. Federal Express Corp.*, 665 F.3d 882, 889, 895 (7th Cir. 2011)), and so should we.

Feinman, Jay M. *Law 101: Everything You Need to Know About American Law, Fourth Edition*. New York: Oxford University Press, 2014. 350p. $27.95.

Reviewed by Alicia G. Jones[*]

¶78 Jay Feinman, a professor at Rutgers University School of Law, has written a book explaining the American legal system, its origins, and its development. "[E]veryone can learn something about the law. That is what *Law 101* is for. It explains the basics of the law—the rules, principles, and arguments that lawyers and judges use" (p.3). The author's gift of storytelling allows him to creatively and effectively use anecdotes, movies, and folklore to illustrate legal principles and concepts. Constitutional law, constitutional rights, torts, civil procedure, property, criminal law, and criminal procedure are each given a chapter in the book. The most important legal issues from each subject are then discussed in a question and answer format. The organization and language allow the text to flow from subject to subject and from question to question. It is not stilted, but instead reads almost like fiction, flowing seamlessly between the different aspects of legal theory. This is not a short guide to explaining the basics of American law, but it provides an in-depth treatment of the American legal system, told in a manner that is easy for readers to understand and grasp. In addition, for those people seeking definitions of legal terminology, Feinman has written a companion book, *1001 Legal Words You Need to Know.*

¶79 Feinman intertwines case law, current events, movies, and hypotheticals into discussions of American law throughout the book. For example, the chapter on constitutional law contains a discussion of slavery, race, and *Dred Scott.*[15] A discussion of more recent litigation, such as *Fisher v. University of Texas,*[16] demonstrates the intersection of affirmative action and equality in education in the chapter on constitutional rights. Civil procedure begins with a description of English law, the role of the king in resolving disputes, and how this gave way to our current adversarial system. In this chapter, the author dissects a U.S. Supreme Court case to show the development of a case and its progress through the court system.

¶80 The *BP Deepwater Horizon* oil spill case and the McDonald's hot coffee litigation help readers understand torts, liability, negligence, and risk. In the chapter on property, characters from *Gone with the Wind* explain property interests and ownership. Readers get a glimpse into the determination of when police can charge a person with a crime from the story of the attempted murder of Don Vito Corelone in *The Godfather.*

¶81 *Law 101* takes readers from feudal laws in England to current American law. It is in the breakdown of issues, terminology, and legal arguments, and the incorporation of everyday life, social conditions, and current events, that Feinman is at

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15. 60 U.S. 393 (1856).

16. 133 S. Ct. 2411 (2013).

his best. He shows how the law has developed in America over the centuries. Readers truly interested in the law, as well as in learning more about the legal system, or even about a particular area of law, will get the most benefit from this book. A detailed table of contents for all of the questions asked, a table of cases, and an index contribute to the book's usefulness. If there is a criticism, it is that the non-lawyer might find the chapter on constitutional law dense and difficult to read owing to the complex and arcane terminology, and the historical nature of the subject matter.

¶82 Academic law libraries and law libraries serving the public, academic libraries serving undergraduate students, and public libraries will find this book a good addition to their collections. This book is also a good read for students thinking of attending law school and for those persons who have been away from the practice of law but are interested in getting reacquainted with its basics.

Gibson, William K., ed., *Flying Solo: A Survival Guide for the Solo and Small Firm Lawyer, Fifth Edition*. Chicago: American Bar Association, 2014. 496p. $99.95.

Reviewed by Brian T. Detweiler[*]

¶83 *Flying Solo: A Survival Guide for the Solo and Small Firm Lawyer, Fifth Edition* is a practical and easy-to-read guide for the experienced attorney or the new graduate looking to start a solo or small firm practice. The contributors are seasoned solo practitioners or experts from other fields who share their wisdom and advice on the practical aspects of opening and operating a small law office. As the authors make clear, a successful solo attorney must be both a savvy businessperson and a competent lawyer with a firm grasp of management, finance, technology, and marketing.

¶84 The fifth edition of *Flying Solo* is organized into five parts, essentially mirroring those areas of competency. Each part consists of several individually authored chapters covering specific aspects of the overarching topical area. Among these seemingly disparate topics of discussion, several common themes emerge throughout the book, including the importance of introspection, specialization, and communication, as well as various strategies for lowering costs.

¶85 The title of the first chapter asks readers, "Are you cut out for solo practice?" This begins what becomes a recurring theme: prospective and current solo practitioners are asked to evaluate themselves, their practices, and their procedures. Attorneys should first know themselves to ensure that they have the independent temperament to be happy as a solo, while also knowing which areas of law they would like to target from a marketing perspective. Meanwhile, regular evaluation of practices and procedures, and strategic planning, can ensure greater efficiency, profitability, and adaptability.

¶86 In addition to devoting a chapter to why an attorney should specialize in a particular field of law, the advantages associated with focusing one's practice appear in other parts of the book as well. Not only does specialization make sense from a competency perspective in today's increasingly complex society, it also allows a

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practitioner to become a recognized authority in a particular area. This recognition may lead to higher fees, referrals from other attorneys, and the ability to represent larger commercial clients. Specialists also avoid the increased malpractice risks associated with practicing in unfamiliar areas and are usually able to work more efficiently than general practitioners, all of which contributes to a more profitable practice.

¶87 Another means of increasing profitability is by lowering costs, which several authors address throughout the book. While some authors present more radical options, like laying off full-time staff and outsourcing nonlegal duties to offsite service providers, others demonstrate opportunities to save money by leveraging technology, like using document assembly software, free and low-cost online resources and collaboration tools, and converting print documents to digital files. And while only the most committed Luddite would argue with the wisdom of "replac[ing] thirty-two filing cabinets with a 32 GB flash drive" (p.386), the authors do an excellent job of alerting readers to potential drawbacks and suggesting procedures to implement new technologies with minimal disruption.

¶88 James A. Calloway describes poor communication skills as "the number one complaint against lawyers" (p.10), which explains why perhaps the most persistent theme in the book is the necessity for solo attorneys to communicate regularly with their clients. Several authors stress that regular communication is essential to satisfy clients. This leads to more business through word-of-mouth referrals, creates higher realization rates because happy clients are more likely to pay their legal bills, and can prevent misunderstandings by keeping clients apprised of an attorney's progress on a matter. In fact, one author relates how communication can also be an important aspect of marketing: by visiting clients "off the clock" and asking them about their businesses and families, he not only improved his personal relationships with his clients, but also (he estimated) generated "immediate business in more than 80 percent of cases" (p.412).

¶89 *Flying Solo* is filled with similar advice from many authors with varying experiences and areas of expertise. Although one consequence of multiple authors is that the information in individual chapters can be redundant or even contradictory[17] at times, reading about a topic from different perspectives can also provide more nuanced treatment. The latest edition incorporates information on strategic planning and new trends in technology like cloud computing and social media. However, the omission of chapters on chemical dependency, coping with stress, and closing a solo practice from the previous edition is unfortunate given that these issues are just as important today as they were nine years ago.

¶90 *Flying Solo* should be on the shelf of every law school career services office and academic law library. The book can be read from cover to cover easily, and probably should be if readers are new to solo practice. Even experienced solo attorneys will find valuable information on making their practices more profitable and efficient.

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17. *Compare, e.g.*, "With cloud computing, there's no need to purchase servers and software; no need to pay expensive annual licensing fees or software upgrade fees; no need to hire IT staff to maintain servers, address security concerns, and stay on top of software updates" (p.298), *with* "File sizes and upload/download speed may make cloud-based storage impractical, and the cost of local network storage makes it very attractive compared with cloud storage" (pp.393–94).

Gruber, M. Catherine. *"I'm Sorry for What I've Done": The Language of Courtroom Apologies*. New York: Oxford University Press, 2014. 241p. $74

Reviewed by Angela Hackstadt[*]

¶91 *"I'm Sorry for What I've Done": The Language of Courtroom Apologies* uses data collected by M. Catherine Gruber to examine apologies in the context of a federal sentencing hearing. A successful apology must adhere to certain rules, and in the courtroom, almost all of these rules are broken. Because the focus of a sentencing hearing is the imposition of sentence, it is understood that a defendant's communicative goals are directed toward that focus, which carries negative implications for the speaker. Apologies are culturally mandated speech acts, which means that there are rules about what constitutes an apology and when an apology is appropriate and expected. A sentencing hearing counts as a ritual site in which an apology is expected, especially when a defendant has pleaded guilty, and these apologies are made for serious offenses with real consequences, in a formal, public setting many months after the offense was committed.

¶92 Gruber identifies various communicative strategies defendants use to express remorse and to align themselves with the law-abiding community. To appear as an "ideal defendant," it is not enough to simply say "I'm sorry" (p.6). A defendant must push back a stigmatized institutional identity and promote an individual identity as a sincerely remorseful, law-abiding citizen. One performance of the "ideal defendant" stance is to state acceptance of responsibility and to acknowledge harm done. The more direct and specific these offense-related statements are, the better. For instance, referring to a felony as a "mistake" could be interpreted as a lack of understanding of the seriousness of the offense. Likewise, less specific statements about who was harmed may show that the defendant is insincere or not fully aware of the consequences.

¶93 Gruber notes the use of nonstandard American English and informal words and expressions in allocutions. This can be attributed to a lack of education or knowledge or it may be an attempt to portray authenticity and individuality. The use of politeness markers, such as formally addressing the judge, may be motivated by an attempt to show potential for future law-abiding conduct. As with informal language, a lack of politeness markers may indicate an unwillingness to underscore the contrast between the stigmatized defendant identity and the judge's valorized identity. An attempt to get across sincerity, remorse, and rehabilitative potential could include a combination of slang and ritual language. In general, a balance of formula and creativity make for a good apology.

¶94 There are patterns to allocutions, and one need not have experience with the criminal justice system to have access to this cultural script. But there is no magical formula for a successful allocution. Because defendants are speaking from a position of powerlessness in a punitive context, any of these statements can be interpreted as self-serving and, therefore, not remorseful. The limitations on the communicative potential of allocutions are discussed in detail and contrasted with the perceived benefits for defendants.

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¶95 The book is concise, yet thorough. Only 160 pages discuss the study and results, with the remaining pages devoted to appendixes (including transcripts of all of the allocutions included in this study), notes, bibliography, and index. Gruber acknowledges that larger studies would be worthwhile, for example, on the differences between the allocutions of men and women and on the relationship between criminal history and declining the opportunity to make an allocution.

¶96 The author's specialty is linguistics, but that should not deter anyone unfamiliar with the field, as the book is well written and quite accessible. This book calls into question a centuries-long practice that has found its way into the American criminal justice system, and Gruber's discussion is certainly valuable to anyone with a scholarly interest in federal sentencing practices.