UNIVERSITY OF OREGON | School of Law

2020 Faculty Newsletter

Scholarship Driving Change

Recent UO Faculty Publications

"Our professors' body of work reflects many facets of the law's impact on the world. On topics addressing racial disparities, climate change, food security, prison reform, constitutional conflicts, dispute resolution, international law, employment law, and the commercial code--our scholarship affects lives today and into the future."

–Marcilynn A. Burke, Dean and Dave Frohnmayer Chair in Leadership and Law

Sarah Adams-Schoen

Assistant Professor

Dismantling Segregationist Land Use Controls, 43 *Zoning Planning Law Reports* 1 (2020).

Two Steps Forward: Promoting Inclusive Infill Development with Middle Housing by Right and Increased Protections for Tenants, 28 *Journal of Affordable Housing and Community Development Law* 363 (2019).

Beyond Localism: Harnessing State Adaptation Lawmaking to Facilitate Local Climate Resilience, 8 *Michigan Journal of Environmental and Administrative Law* 185 (2018).

The WUI, the Waterfront, and the Wicked Problem of Planning and Zoning for Climate Resilience, 41 *Zoning and Planning Law Reports* 1 (2018).

Planning and Zoning Within the Coastal Zone, in ***American Law of Zoning***, 6th Edition (West, ed. Patricia Salkin) (2019).

Angela Addae

Assistant Professor

Challenging the Constitutionality of Private Prisons: Insights from Israel, 25 *William and Mary Journal of Women and the Law* 527 (2019).

Pathways to Sector Selection: A Theoretical Framework for Social Entrepreneurs, 28 *Nonprofit Management and Leadership* 349 (2018) (peer reviewed).

Adell Amos

Clayton R. Hess Professor of Law

Scope and Limitations of Drought Management within Complex Human-Natural Systems (with William K. Jaeger, David Conklin, Christian Langpap, Kathleen Moore, and Andrew Plantinga), 2 *Nature Sustainability* 710 (2019) (peer reviewed).

Mechanisms for Protecting Groundwater-Dependent Ecosystems (with Clinton Donegan Burke), for The Nature Conservancy (August 2018).

Kristen Bell

Assistant Professor

The Recon Approach: A New Direction for Machine Learning in Criminal Law (with Jenny Hong, Nick McKeown, and Catalin Voss), *Berkeley Technology Law Journal* (forthcoming 2021).

A Stone of Hope: Legal and Empirical Analysis of California Juvenile Lifer Parole Decisions, 54 *Harvard Civil Rights-Civil Liberties Law Review* 455 (2019).

A Reparative Approach to Parole Release Decisions, in ***Rethinking Punishment in the Era of Mass Incarceration*** (Chris W. Surprenant ed., Routledge, 2018).

Prisoners as Patients: The Opioid Epidemic, Medication-Assisted Treatment, and the Eighth Amendment (with Michael Linden, Sam Marullo, Curtis Bone, and Declan T. Barry), 46 *Journal of Law,*

Medicine, and Ethics 252 (2018) (symposium).

Sentencing Inside Prisons: Efforts to Reduce Isolating Conditions (with Judith Resnik), 87 *UMKC Law Review* 133 (2018) (symposium).

Carl Bjerre

Wallace L. and Ellen A. Kaapcke Professor of Business Law

The UCC and the ABA's Business Law Section: In Praise of the Omnium Gatherum (with Amelia H. Boss, Charles W. Mooney, Jr., Edwin E. Smith, Sandra M. Rocks, Steven L. Harris, and Steven O. Weise), 75 *Business Lawyer* (forthcoming 2020).

Investment Securities (The Uniform Commercial Code Survey), 74 *Business Lawyer* 1283 (2019).

A Guide to the Hague Securities Convention for US Lawyers (with Sandra M. Rocks, Edwin E. Smith, and Steven O. Weise), 47 *Uniform Commercial Code Law Journal* 389 (2018).

Investment Securities (The Uniform Commercial Code Survey), 73 *Business Lawyer* 1209 (2018).

Marcilynn A. Burke

Dean and Dave Frohnmayer Chair in Leadership and Law

Streamlining or Steamrolling: Oil and Gas Leasing Reform on Federal Public Lands in the Trump Administration, 91 *Colorado Law Review* 453 (2020).

Anything New Under the Sun? When Voters Directly Regulate Energy and Mineral Development, 65 *Rocky Mountain Mineral Law Institute* 2-1 (2019).

Stuart Chinn

Associate Dean for Academic Affairs
Professor and James O. and Alfred T. Goodwin Senior Fellow

Justifying Judicial Modesty, 2020 *Wisconsin Law Review* 239 (2020) (symposium).

Free Speech Controversies and Consequences on Campus, 54 *Tulsa Law Review* 225 (2019) (book review essay).

The Meaning of Judicial Impartiality: An Examination of Supreme Court Confirmation Debates and Supreme Court Rulings on Racial Equality, 2019 *Utah Law Review* (2019).

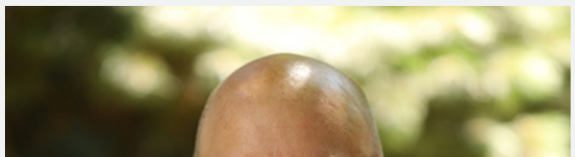
Disagreement and Resentment in Contemporary American Politics, 53 *Tulsa Law Review* 219 (2018) (book review essay).

Political Parties and Constitutional Fidelity, 102 *Marquette Law Review* 387 (2018).

Andrea Coles-Bjerre

Associate Professor

A Linguistic Critique of Tag Jurisdiction: Justice Scalia and the Zombie Metonymy, 68 *American University Law Review* 1 (2018).



Greg Dotson

Assistant Professor

State Authority to Regulate Mobile Source Greenhouse Gas Emissions, Part 2: A Legislative and Statutory History Assessment, 32 *Georgetown Environmental Law Review* (forthcoming 2020).

Addressing Leakage in a Section 115 World, in ***Combating Climate Change with Section 115 of the Clean Air Act*** (Michael Burger ed., Edward Elgar, 2020).

State Authority to Regulate Mobile Source Greenhouse Gas Emissions, Part 1: History and Current Challenge, 49 *Environmental Law Reporter* 11037 (2019).

The Carbon Tax Vote You've Never Heard of and What It Portends, 36 *University of California at Los Angeles Journal of Environmental Law and Policy* 167 (2018).

Michael Fakhri

Associate Professor

How the WTO Constructed Inuit and Indigenous Identity in EC-Seal Products (with Madeleine Redfern), in ***Indigenous Peoples and International Trade: Building an Equitable and Inclusive International Trade and Investment Agreement*** (John Borrows and Risa Schwartz eds., Cambridge University Press, 2020).

A History of Food Security and Agriculture in International Trade Law, 1945-2015, in ***New Voices and New Perspectives in International Economic Law*** (Akbar Rasulov and John Haskell, eds., Springer International, 2020).

Sugar, in ***International Law's Objects*** (Jessie Hohmann and Daniel Joyce eds., Oxford University Press, 2019).

Third World Sovereignty, Indigenous Sovereignty, and Food Sovereignty, 9 *Transnational Legal Theory* 218 (2018) (peer reviewed).

Elizabeth Frost

Senior Legal Research and Writing Professor

Failure Begets Failure, 48 *Stetson Law Review* 33 (2018).

Feedback Distortion: The Shortcomings of Model Answers as Formative Feedback, 65 *Journal of Legal Education* 938 (2016), reprinted in 7 *The Monograph Series*, 2018.

Susan Gary

Orlando John and Marian H. Hollis Professor

§§ 511–550 in ***Bogert's Law of Trusts and Trustees*** (Thompson West, revised second edition, 2019).

Wills, Trusts, and Estates in Focus (with Alyssa DiRusso and Naomi R. Cahn) (Wolters Kluwer, 2019).

The Oregon Stewardship Trust: A New Type of Purpose Trust that Enables Steward-Ownership of a Business, 88 *University of Cincinnati Law Review* 707 (2019) (symposium).

Best Interests in the Long Term: Fiduciary Duties and ESG Integration, 90 *University of Colorado Law Review* 731 (2019).

The Need for a New Type of Purpose Trust, the Stewardship Trust, 45 *ACTEC Law Journal* 37 (2019).

Chapter 9: Nontax Considerations in Testamentary Transfers to Minors, (with Nancy Shurtz), in ***Tax, Estate, and Lifetime Planning for Minors*** (Carmina Y. D'Aversa ed., American Bar Association Book Publishing, second edition, 2019).

Understanding Trusts and Estates (with Roger W. Andersen) (Carolina Academic Press, sixth edition, 2018).

Restricted Charitable Gifts: Public Benefit, Public Voice, 81 *Albany Law Review* 565 (2018).

Ibrahim Gassama

Frank E. Nash Professor

Tort Law and Practice (with Dominick Vetri, Larry Levine, Joan Vogel, and Carol Suzuki) (Carolina Academic Press, sixth edition, 2020).

Erik Girvan

Associate Professor

Associations between Community-level Racial Biases, Office Discipline Referrals, and Out-of-School Suspensions (with Kent McIntosh and Maria Santiago-Rosario), *School Psychology Review* (forthcoming 2021) (peer reviewed).

Restorative and Conflict Resolution Interventions (with Rhonda Nese, Sara McDaniel, Paul Meng, Lisette Spraggins, and Vikki Babbs), in ***Peers as Change Agents: A Guide to Implementing Peer-Mediated Interventions in Schools*** (T.A. Collins and R.O. Hawkins eds., Oxford University Press, forthcoming 2021).

Towards a Problem-Solving Approach to Addressing Racial Disparities in School Discipline Under Anti-Discrimination Law, *University of Memphis Law Review* (forthcoming 2020) (symposium).

Awareness is Not Enough: A Double-Blind Randomized Trial of the Effects of Providing Discipline Disproportionality Data Reports to School Administrators (with Kent McIntosh, Keith Smolkowski, Cody M. Gion, Lauren Witherspoon, and Eoin Bastable), 48 *Educational Researcher* 533 (2020) (peer reviewed).

The School-to-Prison Pipeline: How Federal Anti-Discrimination Law Fails to Protect Equal Educational Opportunity, in ***The Oxford Handbook of U.S. Education Law*** (K. Bowman, ed.) New York, NY: Oxford University Press (2019).

The Law and Social Psychology of Racial Disparities in School Discipline, in ***Advances in Psychology & Law, Vol. 4*** (Brian H. Bornstein and Monica K. Miller eds., Springer International, 2019).

Tail, Tusk, and Trunk: What Different Metrics Reveal About Racial Disproportionality in School Discipline

(with Kent McIntosh and Keith Smolkowski), 54 *Educational Psychologist* 40 (2019) (peer reviewed).

Using Discipline Data to Enhance Equity in School Discipline (with Kent McIntosh, Kathleen Elwood, and Lisa McCall), 53 *Intervention in School and Clinic* 146 (2018) (peer reviewed).

Rebekah Hanley

Senior Legal Research and Writing Professor

The Pocket Prof: A Composition Handbook for Legal Writing Students, a Creative Commons Open Educational Resource (forthcoming 2020).

Model Dress Code: Promoting Genderless Attire Rules to Foster an Inclusive Legal Profession (with Malcolm MacWilliamson), 33.3 *Journal of Civil Rights and Economic Development* (forthcoming 2020).

Leslie Harris

Professor Emerita

Children, Parents and the Law: Public and Private Authority in the Home, Schools, and Juvenile Courts (Wolters Kluwer, fourth edition, 2019).

Family Law (with June Carbone and Rachel Rebouche) (Wolters Kluwer, sixth edition, 2018).

Tom Lininger

Orlando John and Marian H. Hollis Professor

Deconstructing Rules for Proof of Cognitive Impairments, in ***Embodied and Socially Constructed: Dis/ability in Media, Law and History*** (Frank Rudy Cooper, et al., eds, forthcoming 2021) (peer reviewed).

Judges' Ethical Duties to Ensure Fair Treatment of Indigent Parties, 89 *Fordham Law Review* (forthcoming 2021) (symposium).

No Privilege to Pollute: Expanding the Crime-Fraud Exception to the Attorney-Client Privilege, 105 *Minnesota Law Review* (forthcoming 2020).

The New Wigmore Treatise on Evidence: Impeachment and Rehabilitation (with Roger Park) (Wolters Kluwer, 2019 update).

Reforming Judicial Ethics to Promote Environmental Protection, 49 *Environmental Law Reporter* 10789 (2019) (symposium).

Exploring Strategies to Promote Access to Justice, 31 *Georgetown Journal of Legal Ethics* 357 (2018) (symposium).

Green Ethics for Judges, 86 *George Washington Law Review* 711 (2018).

Mohsen Manesh

Associate Professor

The Contested Edges of Internal Affairs, 87 *Tennessee Law Review* 251 (2020).

Fiduciary Principles in Unincorporated Entity Law, in ***The Oxford Handbook of Fiduciary Law*** (Evan J. Criddle, Paul B. Miller, and Robert H. Sitkoff eds., Oxford University Press, 2019).

Introducing the Totally Unnecessary Benefit LLC, 97 *North Carolina Law Review* 603 (2019).

Creatures of Contract: A Half-Truth about LLCs, 42 *Delaware Journal of Corporate Law* 391 (2018).

Roberta Mann

Mr. and Mrs. L.L. Stewart Professor of Business Law

Tax Implications of Environmental Aspects of Real Estate and Commercial Transactions, in ***Environmental Aspects of Real Estate Transactions*** (American Bar Association Book Publishing 2020).

Taxes, Corporations, and Infrastructure: Filling the Gap?, 35 *Natural Resources & Environment* (forthcoming 2020).

Borrowing from Millennials to Pay Boomers: Can Tax Policy Create Sustainable Intergenerational Equity (with Jonathan B. Forman), 36 *Georgia State University Law Review* 799 (2020).

I Robot, U Tax?, 64 *McGill Law Journal* (2019).

Saving the Planet by Cutting Corporation Taxes: A Comparative Case Study Analysis (with Fiona Martin and Bill Butcher), 23 *Florida Tax Review* 238 (2019).

Shaping Taxpayers: An Anthropologist's Perspective on Tax Compliance, 159 *Tax Notes* 579 (2019) (book review).

Tax Policies for Clean Manufacturing: Implementing the Green New Deal, 17 *Pittsburgh Tax Review* 1 (2019).

Oregon: Constitutional Barriers to a Carbon Tax, in ***El Marco Constitucional de la Tributación Ambiental/The Constitutional Framework of Environmental Taxation*** (Rodolfo Salassa-Boix ed., Ciencia, Derecho y Sociedad, 2018).

Tax Law and the Environment: A Multidisciplinary Approach (with Tracey M. Roberts eds., Lexington Books, 2018).

The Tax Treatment of Coal, in ***Tax Law and the Environment*** (Roberta F. Mann and Tracey M. Roberts, eds., Lexington Books, 2018).

Response to Professor Rosenbloom: Fifty Shades of Gray Infrastructure, 93 *Washington Law Review Online* 103 (2018).

Michelle McKinley

Bernard B. Kliks Professor

Juana de Godinez, in ***Freedom in Degrees: A Collective Biography of Black Women and Emancipation in the Americas*** (Tatiana Seijas, Terri Snyder and Erica Ball eds., Cambridge University Press, 2020).

Fractional Freedoms: Slavery, Intimacy, and Legal Mobilization in Colonial Lima, 1600–1700 (Cambridge University Press, paperback, 2018).

Pablo Miguel Sierra Silva. Urban Slavery in Colonial Mexico: Puebla de Los Angeles, 1531–1706, 134 *English Historical Review* 548 (2019) (book review).

Bianca Premo. The Enlightenment on Trial: Ordinary Litigants and Colonialism in the Spanish Empire, 123 *The American Historical Review* 984 (2018) (book review).

Tamara Walker. Exquisite Slaves: Race, Clothing, and Status in Colonial Lima, 75 *The Americas: A Quarterly Review of Latin American History* 766 (2018) (book review).

Michael Moffitt

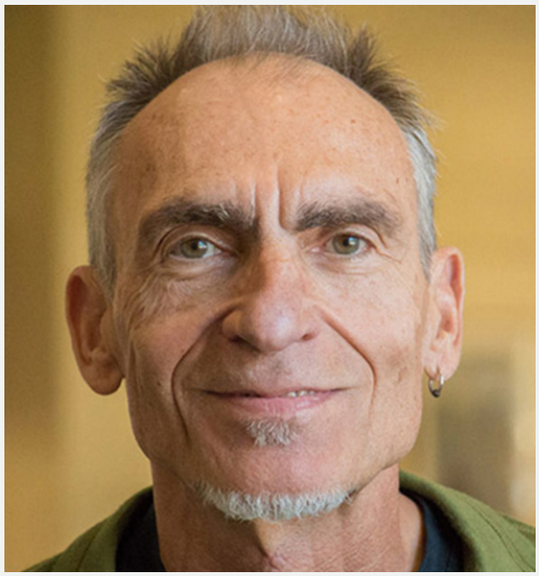
Philip H. Knight Chair, Professor

Dispute Resolution: Examples & Explanations (with Andrea Kupfer Schneider) (Wolters Kluwer, fourth edition, 2019).

Dispute Resolution: Beyond the Adversarial Model (with Carrie J. Menkel-Meadow, Lela Porter Love, and Andrea Kupfer Schneider) (Aspen, third edition, 2018).

Navigating Conflict: How Youth Handle Trouble in a High-Poverty School, 36 *Negotiation Journal* 73 (2020) (book review).

Settlement Malpractice, 86 *University of Chicago Law Review* 1825 (2019).



Michael Musheno

Professor

Navigating Conflict: How Youth Handle Trouble in a High Poverty School (with Calvin Morrill) (University of Chicago Press, 2018).

Eric Priest

Associate Professor

An Entrepreneurship Theory of Copyright, 37 *Berkeley Technology Law Journal* (forthcoming 2021).

Redeeming Globalization through Unfair Competition Law (with Sean A. Pager), 41 *Cardozo Law Review* (forthcoming 2020).

Why Don't We Think about Authors the Way We Think about Entrepreneurs? 53 *Akron Law Review* (forthcoming 2020).

Ofer Raban

Elmer Sahlstrom Senior Faculty Fellow, Professor

The Silent Prologue: How Judicial Philosophies Shape Our Constitutional Rights (George Mason University Press, 2020).

Against Interpretation as an Alternative to Invalidation: A Response, 48 *Federal Law Review* 272 (2020) (peer-reviewed).

Some Observations on the First Amendment and the War on Terror, 53 *Tulsa Law Review* 141 (2018).

Jennifer W. Reynolds

Associate Dean of Faculty Research and Programs; Associate Professor

Talking About Abortion (Listening Optional), *Texas A&M Law Review* (forthcoming 2020).

Does ADR Feel Like Justice?, 88 *Fordham Law Review* 2357 (2020) (symposium).

Snap Disputes, 25 *Harvard Negotiation Law Review* 37 (2019).

Oversimplifying, Overselling, Overreaching, in ***Discussions on Dispute Resolution: The Formative Articles*** (Sarah Cole et al. eds., forthcoming 2020).

Thinking of Activism as ADR, in ***Negotiation Essentials for Lawyers*** (Chris Honeyman and Andrea Kupfer Schneider eds., 2019).

The A is for Activism, in ***Negotiator's Desk Reference*** (Chris Honeyman and Andrea Kupfer Schneider eds., DRI Press, second edition, 2018).

Joan Rocklin

Senior Legal Research and Writing Professor

Exam-Writing Instruction: Why It Should Be Done and How to Do It, in Lawyering Skills in the Doctrinal Classroom (Tammy Pettinato Oltz ed., forthcoming 2020).

A Lawyer Writes: A Practical Guide to Legal Analysis (with Chris Coughlin and Sandy Patrick) (Carolina Academic Press, third edition, 2018).

Exam-Writing Instruction in a Classroom Near You: Why It Should Be Done and How to Do It, 22 *Journal of the Legal Writing Institute* 189 (2018).

Suzanne Rowe

James L. and Ilene R. Hershner Professor

Faculty Status and Governance (with Kristen Tiscione and Melissa Weresh) in ***Legal Writing Sourcebook*** (American Bar Association Book Publication, third

edition, 2020).

Florida Legal Research (with Barbara Busharis and Anne Mullins) (Carolina Academic Press, fifth edition, 2020).

The Rising Tide in the Legal Writing Community: Lifting All Boats or Changing Climate?, 24 *Legal Writing: Journal of the Legal Writing Institute* (2020) (peer edited).

California Legal Research (with Aimee Dudovitz and Sarah Laubach) (Carolina Academic Press, fourth edition, 2019).

Oregon Legal Research (with Megan Austin) (Carolina Academic Press, fourth edition, 2018).

The Elephant in the Room: Responding to Racially Charged Words, 5 *Legal Communication and Rhetoric: JALWD* 263 (2018) (peer edited).

Nancy Shurtz

B.A. Kliks Professor

Chapter 9: Nontax Considerations in Testamentary Transfers to Minors (with Susan N. Gary), in ***Tax, Estate, and Lifetime Planning for Minors*** (Carmina Y. D'Aversa ed., American Bar Association Book Publishing, second edition, 2019).

Tax, Class, Women, and Elder Care, 43 *Seattle University Law Review* 223 (2019).

Long-Term Care and the Tax Code: A Feminist Perspective on Elder Care, 20 *Georgetown Journal of Gender and the Law* 107 (2018).

Emanuel Crunch Time: Basic Federal Income Tax (with Gwendolyn Griffith Lieuallen), (Wolters Kluwer, fifth edition, 2018).

Elizabeth "Liz" Tippett

Associate Professor

Does Attorney Advertising Stimulate Adverse Event Reporting? (with Brian Chen), 74 *Food & Drug Law Journal* 501 (forthcoming 2020) (peer reviewed).

Opportunity Discrimination: A Hidden Liability Employers Can Readily Fix, 23 *Employee Rights and Employment Policy Journal* 165 (2019).

Drug Injury Advertising (with Jesse King), 18 *Yale Journal of Health Policy, Law, and Ethics* 114 (2019).

Arbitration and Mediation of Employment and Consumer Disputes: Proceedings of the New York University 69th Annual Conference on Labor (with Samuel Estreicher eds., Carolina Academic Press, 2018).

Harassment Trainings: A Content Analysis, 39 *Berkeley Journal of Employment and Labor Law* 481 (2018).

How Employers Profit from Digital Wage Theft Under the Fair Labor Standards Act (FLSA) 55 *American Business Law Journal* 315 (2018) (peer reviewed).

How Concepcion and Italian Colors Affected Terms of Service Contracts in the Gig Economy (with Bridget Schaaff), 70 *Rutgers Law Review* 459 (2018).

The Legal Implications of the MeToo Movement, 103 *Minnesota Law Review* 228 (2018).

Does Attorney Advertising Influence Patient Perceptions of Pelvic Mesh? (with Jesse King, Vincent Lucente, Sonia Ephraim, Miles Murphy and Eileen Taff), 111 *Urology* 65 (2018).

Dominick Vetri

Professor Emeritus

Tort Law and Practice (with Ibrahim Gassama, Larry Levine, Joan Vogel, and Carol Suzuki) (Carolina Academic Press, sixth edition, 2020).

Merle Weiner

Philip H. Knight Professor

A Mistake Waiting to Happen: The Failure to Correct the Article 13(1)(b) Guide to Good Practice (with Rhona Schuz), 2 *International Family Law* 87 (2020).

The Article 13(b) Guide to Good Practice, 25 *The Domestic Violence Report* 7, Oct./Nov. 2019, with Merle H. Weiner, Addendum to Weiner's Article on **The Article 13(b) Guide to Good Practice**, *The Domestic Violence Report* (2020).

A Note from the Guest Editor, 25 *The Domestic Violence Report* 2 (Oct./Nov. 2019).

When A Parent is Not Apparent, 80 *University of Pittsburgh Law Review* 1 (2019).

Regulating the Relationship Between Parents: Moving Beyond the Law of Marriage and Custody, in ***The Contested Place of Religion in Family Law*** (Robin Fretwell Wilson ed., Cambridge University Press, 2018).

Mary Christina Wood

Philip H. Knight Professor

Atmospheric Recovery Litigation Around the World: Gaining Natural Resource Damages Against Carbon Majors to Fund a Sky Cleanup for Climate Restoration, in ***Handbook on Loss and Damages*** (Edward Elgar ed., forthcoming 2020).

The Public Trust Doctrine in Environmental and Natural Resources Law (with Michael C. Blumm) (Carolina Academic Press, third edition, 2020).

Restoring Democracy: Nature's Trust, Human Survival, and Constitutional Fiduciary Governance, in ***Democracy Unchained: Politics as if All People Matter*** (David Orr et al. eds., The New Press, 2020).

Joseph Sax: The Public Trust in Environmental Law (with Gerald Torres), in ***Pioneers in Environmental Law*** (Jan G. Laitos and John Copeland Nagle, eds., Twelve Table Press, 2020).

Landscape Carbon Sequestration for Atmospheric Recovery: A Perspective on Convergence to Accelerate Carbon Dioxide Drawdown (with Lucas Silva), for the *National Science Foundation* (2019).

Atmospheric Trust Litigation: Securing a Constitutional Right to a Stable Climate System, 29 *Colorado Natural Resources Energy and Environmental Law Review* 321 (2018).

Intergenerational Equity Can Help to Prevent Climate Change and Extinction (with Adrian Treves, et al.),

2 *Nature Ecology & Evolution* 204 (2018).

Juliana v. United States: Debating the Fundamentals of the Fundamental Right to a Sustainable Climate (with Erin Ryan, Jim Huffman, Irma Russell, and Richard Frank), 46 *Florida State University Law Review Online* (2018) (symposium).

Tribal Tools & Legal Levers for Halting Fossil Fuel Transports & Exports Through the Pacific Northwest (with Anna Elza Brady and Brendan Keenan Jr.), 7 *American Indian Law Journal Issue* 1, at Article 5 (2018).

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