



AALS

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# Commercial and Related Consumer Law Section



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*Indiana University-Maurer*

## A NOTE FROM THE SECTION CHAIR:

Greetings! On behalf of the Section on Commercial and Related Consumer Law, we are looking forward to seeing you at the 2018 AALS Annual Meeting. This year, we are excited to partner with the Section on Real Estate Transactions to co-host a program during the meeting. Please join us from 1:30 pm to 3:15 pm on Thursday, January 4, in Pacific Ballroom 17, for our panel, *Exploring New Frontiers in Real Estate Development*.

The program will offer a cutting-edge discussion of diverse issues associated with real estate development, from the Fair Housing Act to financing public higher education. A decade following the financial crisis, it is a particularly opportune to examine the diverse issues associated with real estate development from variety of legal perspectives, including finance, commercial law, bankruptcy and restructuring, fair housing, and related consumer protection laws. Confirmed speakers are Professors Andrea J. Boyack (Washburn University School of Law), Robin Paul Malloy (Syracuse University College of Law), David Reiss (Brooklyn Law School), Jennifer Taub (Vermont Law School), and Carol Zeiner (St. Thomas University School of Law).

I also am pleased to report that the Section had a productive fall semester thus far. The highlight was our co-sponsorship with the Section on Property of the Property Implications of the Sharing Economy Workshop hosted by and held at Penn State Law in University Park, PA in early October. Section members Jim Hawkins and Stacey-Ann Elvy presented their works in progress, *Consumers as Sellers* and *Commodifying Consumer Data* (respectively). Many thanks to Penn State Law for inviting us to be part of the interesting and productive workshop.

Hope to see you all at the AALS meeting!



#AALS2018




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## Teaching Consumer Law: Where Have We Been—Where Are We Going?

(University of Houston Law & University of New Mexico Law @Santa Fe, NM)

The Center for Consumer Law at the University of Houston Law Center, in cooperation with the University of New Mexico School of Law, is organizing its tenth biennial [international teaching consumer law conference](#). The Conference will be held at the [Hilton Hotel](#) in Santa Fe, New Mexico.

The Conference will focus on traditional issues of consumer law, in the context of significant changes in technology, privacy and social media. The Conference is directed at those currently teaching or interested in teaching consumer law at the law school or college level.

The 2018 conference will deal with themes such as:

- How might we integrate the increased use of social media into a consumer law course?
- What innovations can or should we bring to the consumer law classroom to reflect popular culture?
- Do we need more consumer regulation, or less?
- What is the impact in the US of the Consumer Financial Protection Bureau (CFPB), and how do you teach about the CFPB?
- Are there innovative ways to resolve consumer problems, other than the typical court and alternative dispute resolution systems?
- How do we deal with intra-state and intra-national consumer transactions?
- Is online dispute resolution good or bad?
- How can we teach the multitude of subjects encompassed within the term "consumer law"? What should we emphasize? What should we delete?
- International consumer law developments and innovations.
- Recent developments in substantive US consumer law.
- The view from the trenches—what do practicing attorneys see as the current consumer law issues.

Those who wish to submit a paper or presentation topic are invited to forward a proposal including a brief abstract of not longer than 400 words and contact information for the author. The proposals should be sent to Professor Richard M. Alderman at [alderman@uh.edu](mailto:alderman@uh.edu). **Proposals should be submitted no later than 15 January 2018.** Authors will be promptly notified of acceptance. Final drafts of the papers that are to be included in the Conference materials are to be forwarded not later than the 1st of May 2018. The language of the conference is English. Conference registration fees will be waived for all presenters. Some scholarships are available for travel and room costs. Selected papers will be published in the Journal of Consumer and Commercial Law.

# COMMERCIAL FINANCE AWARD

THE AMERICAN COLLEGE OF COMMERCIAL FINANCE LAWYERS is pleased to announce a call for nominations for the annual **Grant Gilmore Award**. The committee welcomes articles that cover any area of commercial finance law and that were published in either 2016 or 2017.

Nominations are due December 15 and can be emailed to [Juliet Monnaiello](mailto:Juliet.Monnaiello). For more information, click [here](#).

## Section Members to Participate in CFPB Student Loan Ombudsman's Forum on Student Debt and Consumer Law & Policy (Washington DC)



The Student Loan Ombudsman and Assistant Director for the Office of Students and Young Consumers at the Consumer Financial Protection Bureau (CFPB) is launching an initiative to help spark scholarly writing and research on issues related to student loan markets and the law. Currently, 44 million Americans together owe \$1.4 trillion in student debt. The gathering will discuss how the growth in student loan debt has presented unique legal and financial challenges for borrowers, and will identify ways that consumer law and policy is only now beginning to adapt to address these issues.

Under the Dodd-Frank Act, the Student Loan Ombudsman is required to analyze consumer complaints and develop policy recommendations that respond to the needs of America's student loan borrowers. This academic forum on student debt and consumer law is a part of fulfilling that goal.

Faculty members (many of whom are members of our section!) set to attend the forum include: Christopher Peterson (Utah), Dalie Jimenez (Connecticut), Jonathan Glater (Irvine), Kate Sablosky Elengold (North Carolina), Prentiss Cox (Minnesota), John Brooks (Georgetown), Cre Johnson (Ohio State), Adam Levitin (Georgetown), Mary Spector (SMU), Alan White (CUNY), Daniela Kraiem (American), and Chris Odinet (Southern). The first meeting will take place on Friday, December 8, 2018.

## LAWYERING from the Inside Out

Learning Professional Development through  
Mindfulness and Emotional Intelligence



NATHALIE MARTIN

CAMBRIDGE

## Member Spotlight

Mindfulness and emotional intelligence are increasingly important in today's environment. Check out section member Nathalie Martin's [forthcoming book](#) with Cambridge University Press designed to help law students develop skills that will be useful for their professional lives.

Congratulations, Nathalie!

## RECENT SCHOLARSHIP

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### Carl S. Bjerre (Oregon)

*A Guide to The Hague Securities Convention for U.S. Lawyers*, UNIFORM COMMERCIAL CODE L.J. (forthcoming 2017) (with Sandra M. Rocks, Edwin E. Smith, and Steven O. Weise).

*Security Interest Opinions Under The Hague Securities Convention*, 16 IN OUR OPINION 11 (ABA Legal Opinions Committee, Spring 2017) (with Sandra M. Rocks, Edwin E. Smith, and Steven O. Weise).

### Susan Block-Lieb (Fordham)

GLOBAL LAWMAKERS: INTERNATIONAL ORGANIZATIONS AND THE CRAFTING OF WORLD MARKETS (with Terence C. Halliday) (forthcoming Cambridge Univ. Press 2017).

*Reaching to Restructure Across Borders (Without Over-Reaching), Even After Brexit*, 92 AMER. BANKR. L.J. (forthcoming 2018) [[SSRN](#)].

*The UK and EU Cross-Border Insolvency Recognition: From Empire to Europe to “Going It Alone”*, 40 FORDHAM INT’L L.J. 1373 (2017) [[SSRN](#)].

### Andrea Boyack (Washburn)

*Limiting the Collective Right to Exclude*, 44 FORDHAM URBAN L. J. 453 (2017) [[SSRN](#)].

*Equitably Housing (Almost) Half a Nation of Renters*, 65 BUFFALO L. REV. 109 (2017) [[SSRN](#)].

*A New American Dream for Detroit*, 93 U. OF DETROIT MERCY L. REV. 573 (2016) [[SSRN](#)].

### Kara Bruce (Toledo)

*Closing Consumer Bankruptcy’s Enforcement Gap*, BAYLOR L. REV. (forthcoming 2017).

### Matthew Adam Bruckner (Howard)

*Bankrupting Higher Education*, AM. BANKR. L.J. (forthcoming 2017) [[SSRN](#)].

*The Promise and Perils of Algorithmic Lenders’ Use of Big Data*, CHI. KENT. L.J. (forthcoming 2017).

*Higher Ed “Do Not Resuscitate” Orders*, U. KY. L. REV. (forthcoming 2018) [[SSRN](#)].

Symposium, *Terminating Tenure: Rejecting Tenure Contracts in Bankruptcy*, AM. BANKR. L.J. (forthcoming 2018).

### **Kathleen C. Engel (Suffolk)**

*Local Governments and Risky Home Loans*, 69 SMU L. REV. 609 (2016) [[SSRN](#)].

*Can Consumer Law Solve the Problem of Complexity in U.S. Consumer Credit Products?* CREDIT, CONSUMERS AND THE LAW: AFTER THE GLOBAL STORM (K. Fairweather, P. O'Shea, & R. Grantham 2016).

### **Pamela Foohey (Indiana)**

*"No Money Down" Bankruptcy*, 90 S. CAL. L. REV. 1055 (2017) (with Robert M. Lawless, Katherine Porter, and Deborah Thorne) [[SSRN](#)].

*Exploring "No Money Down" Chapter 13 Bankruptcy*, 36-6 ABIJ 20 (2017) (with Robert M. Lawless, Katherine Porter, and Deborah Thorne).

*Calling on the CFPB for Help: Telling Stories and Consumer Protection*, 80 LAW & CONTEMP. PROBS. 177 (2017) [[SSRN](#)].

*Lender Discrimination, Black Churches, and Bankruptcy*, 54 HOUS. L. REV. 1079 (2017) [[SSRN](#)].

### **Boris Kozolchyk (Arizona)**

COMPARATIVE COMMERCIAL CONTRACTS: LAW, CULTURE AND ECONOMIC DEVELOPMENT (forthcoming West Publishing 2018).

### **Chunlin Leonhard (Loyola-NOLA)**

*Dangerous or Benign Legal Fictions, Cognitive Biases and Consent in Contract Law*, publication pending, ST. JOHN'S LAW REV. (forthcoming 2017).

### **Colin Marks (St. Mary's)**

COLOR ME SECURED: EXPLORING ARTICLE 9 WITH CRAYONS (with Marc L. Roark) (Peter Lane Pub. 2017).

### **Jim Maxeiner (Baltimore)**

FAILURES OF METHODS OF AMERICAN LAWMAKING IN HISTORICAL AND COMPARATIVE PERSPECTIVES (forthcoming Cambridge University Press 2018).

### **Chris Odinet (Southern)**

FORECLOSED: MORTGAGE SERVICING AND THE HIDDEN ARCHITECTURE OF HOMEOWNERSHIP IN AMERICA (forthcoming Cambridge University Press 2018).

*Consumer BitCredit and Marketplace Lending*, ALA. L. REV. (forthcoming 2018) [[SSRN](#)].

*BitProperty and Commercial Credit*, 94 WASH. U. L. REV. 649 (2017) [[SSRN](#)].

### David Reiss (Brooklyn)

*Charting the Future of the Federal Housing Administration, Probate & Property* (forthcoming 2018).

*The Federal Housing Administration and African-American Homeownership*, ABA J. AFFORD. HOUS. & CMTY. DEV. (forthcoming 2017-18).

*Accessible Credit, Sustainable Credit and the Federal Housing Administration*, BANK. & FIN. SERV. POL. REP. (June 2017).

*Sloppy, Sloppy, Sloppy: The State of the Mortgage Market*, 39 CALIFORNIA REAL PROPERTY LAW REPORTER 60-61 (2016).

### Amy J. Schmitz (Missouri)

THE NEW HANDSHAKE: ONLINE DISPUTE RESOLUTION AND THE FUTURE OF CONSUMER PROTECTION (with Colin Rule) (American Bar Association 2017).

*Using Technology to Usher in a New Era of International Consumer Protection*, INTERNATIONAL DISPUTE RESOLUTION NEWS (2017).

*Arbitrating Online*, THE BRAVE WORLD OF ARBITRATION: THE ROLE OF TECHNOLOGY AND THE INTERNET IN INTERNATIONAL ARBITRATION (forthcoming Cambridge University Press 2017).

FOR CONSUMER DISPUTE RESOLUTION (Oxford University Press 2016).

*Building Trust in Ecommerce Through Online Dispute Resolution*, RESEARCH HANDBOOK ON ELECTRONIC COMMERCE LAW (Edward Elgar Publishing 2016).

*The New Handshake: Where We Are Now*, 3 INTERNATIONAL JOURNAL OF ONLINE DISPUTE RESOLUTION 84 (2016).

*Remedy Realities in Business to Consumer Contracting*, 58 ARIZONA L. REV. 213 (2016).

### Steven L. Schwarz (Duke)

*Changing Law to Address Changing Markets: A Consequence-Based Inquiry*, 80 LAW & CONTEMPORARY PROBLEMS 163 (2017).

*The Financial Crisis and Credit Unavailability: Cause or Effect?*, 72 THE BUSINESS LAWYER 409 (Spring 2017).

*Rethinking Corporate Governance for a Bondholder Financed, Systemically Risky World*, 58 WILLIAM & MARY LAW REVIEW 1335 (2017).

*Misalignment: Corporate Risk-Taking and Public Duty*, 92 NOTRE DAME LAW REVIEW 1 (Nov. 2016).

*Securitization and Post-Crisis Financial Regulation*, 101 CORNELL LAW REVIEW ONLINE 115 (2016).

*Regulating Financial Change: A Functional Approach*, 100 MINNESOTA LAW REVIEW 1441 (2016).

*Perspectives on Regulating Systemic Risk*, SYSTEMIC RISK, INSTITUTIONAL DESIGN, AND THE REGULATION OF FINANCIAL MARKETS (Oxford University Press, Anita Anand, ed.) (2016).

*Sovereign Debt Restructuring: A Model-Law Approach*, 6 JOUR. OF GLOBALIZATION AND DEVELOPMENT 343 (2016).

Voices (Woodrow Wilson International Center for Scholars & Canada Institute, Issue No. 18, Stephanie McLuhan, ed. 2016).

*Macroprudential Regulation of Mortgage Lending*, 69 SMU LAW REVIEW 595 (2016).

*Anticipating New Sources of Systemic Risk in Insurance* (with Daniel Schwarcz), SYSTEMIC RISK AND THE FUTURE OF INSURANCE REGULATION (Andromachi Georgosouli & Miriam Goldby, eds. 2016).

*The Macroprudential Quandary: Unsystematic Efforts to Reform Financial Regulation* (with Kern Alexander), RECONCEPTUALISING GLOBAL FINANCE AND ITS REGULATION 127-58 (Ross Buckley et al., eds., Cambridge U. Press 2016).

### **Jeff Sovern (St. John's)**

*Are Validation Notices Valid? An Empirical Evaluation of Consumer Understanding of Debt Collection Validation Notices*, 70 SMU L. REV. 63 (2017) (with Kate E. Walton) [[SSRN](#)].

*Free Market Failure: The Wells Fargo Arbitration Clause Example*, 70 RUTGERS U.L. REV. (forthcoming 2017) [[SSRN](#)]

### **Rory Van Loo (Boston University)**

*Making Innovation More Competitive: The Case of Fintech*, 65 UCLA L. REV. (forthcoming 2018) [[SSRN](#)]

*Rise of the Digital Regulator*, 66 DUKE L.J. 1267 (2017) [[SSRN](#)].

*The Corporation as Courthouse*, 33 YALE J. on REG. 547 (2016) [[SSRN](#)].

### **Jay Lawrence Westbrook (Texas)**

*The Demystification of Contracts in Bankruptcy*, 91 AM. BANK. L.J. 481 (2017) (with Kelsi Stayart White) [[SSRN](#)].

*The Retreat of American Bankruptcy Law*, 17 QUEENSLAND L. REV. 40 (2017).