

Keeping Up with New Legal Titles*

Compiled by Amy Atchison** and Catherine F. Halvorsen***

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* © Amy Atchison and Catherine F. Halvorsen, 2006. The books reviewed in this issue were published in 2005. If you would like to review books for "Keeping Up with New Legal Titles," please send an e-mail message expressing your interest to atchison@law.ucla.edu.

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Annas, George J. *American Bioethics: Crossing Human Rights and Health Law Boundaries*. New York: Oxford University Press, 2005. 224p. \$35.

Reviewed by Monica A. Sharum

¶1 *American Bioethics: Crossing Human Rights and Health Law Boundaries* provides a thoughtful exploration of many of the morally challenging and complex issues embodied in the field of bioethics. It is a philosophical discussion of issues such as medical experimentation and human cloning, with a focus on how each issue relates to human rights or health law. The first half of *American Bioethics* examines human rights issues from a bioethics perspective, covering such subtopics as bioterrorism, health care issues, and genetic engineering. The second half focuses on the interplay between bioethics and health law. Issues considered in this section include partial-birth abortion, conjoined twins, and the handling of placental blood. Although *American Bioethics* is formally divided into these two discrete components, the relationship between human rights and health law is explored throughout the text.

¶2 Author George Annas is the chair of the Health Law Department at Boston University School of Public Health and cofounder of Global Lawyers and Physicians, an organization that advocates for human and health care rights. He contends that human rights should be the foundation for discussing bioethics. In *American Bioethics*, he frequently cites to human rights documents in the development of his arguments and helpfully includes several of these documents in the appendixes. Discussion of materials such as the Universal Declaration of Human

Rights¹ provides the framework for his analysis of the right to health care and the individual's right to determine what medical treatments should be given. In his discussion of human rights and bioethics issues, Annas argues for the creation of new international treaties to deal with the growing concerns of human cloning and gene alteration.

¶3 *American Bioethics* is a compilation of twelve previously published articles by Annas that have been updated for this book.² Although each chapter remains a self-contained essay, easily understood in isolation, Annas does a commendable job of combining them into a coherent book. The conclusion successfully pulls together all twelve chapters.

¶4 Abstruse scientific and legal principles are presented in a straightforward and easy to understand manner. Complex material is accessible to the reader with limited background in this subject area through the author's use of analogies from both literature and case law. For example, when examining questions raised by cloning in chapter 3, Annas uses a reference to Mary Shelley's novel *Frankenstein*³ to help explore the responsibility of the creator to the cloned organism. In chapter 7, Annas uses examples arising from court cases to help frame the issue of when conjoined twins can be separated.

¶5 For the most part, the book is well organized. Additional enhancements include a table of contents, endnotes, and an index. However, *American Bioethics* does suffer a few shortcomings. At times, Annas includes information within an endnote that is critically connected to his point. The endnote format can be distracting, as it requires the reader to flip through the text. Also, the index contains detailed entries rather than broad topical ones. For example, there is an index heading for "2001: A Space Odyssey" but no heading for "abortion." The table of contents is a significantly more useful reference tool than the index.

¶6 *American Bioethics: Crossing Human Rights and Health Law Boundaries* will be of particular value to an academic audience and a satisfactory addition to a law school or other academic library collection. Annas raises many important questions that might stimulate debate. However, the work is not as helpful in determining the current state of human rights and health-care law.

Fletcher, George P., and Steve Sheppard. *American Law in a Global Context: The Basics*. New York: Oxford University Press, 2005. 682p. Paper, \$35.

Reviewed by June Kim

¶7 As its title indicates, *American Law in a Global Context: The Basics* is an introduction to the study of U.S. law and its relationship to other legal systems around the globe. Despite its rather ambitious goal, George Fletcher, the Cardozo

1. G.A. Res. 217 A, U.N. GAOR, 3rd Sess., U.N. Doc. A/810 (1948).

2. Most of the previous articles were published in the *New England Journal of Medicine*.

3. MARY SHELLEY, *FRANKENSTEIN* (Oxford Univ. Press 2001) (1818).

Professor of Jurisprudence at Columbia Law School, and Steve Sheppard, associate law professor at the University of Arkansas, successfully summarize the law and lawyering tools taught in the first-year curriculum at most U.S. law schools. They also provide historical context, parallels to civil law traditions, and a “big picture” view of the U.S. legal system. Given the practical limitations of any written work, the authors limit the scope of “global context” to include civil law practiced in continental Europe, mostly Germany and France, the other English language common law systems, and a handful of international legal documents such as the statute establishing the International Criminal Court.⁴

¶8 *American Law* is written in clear, succinct language and is organized primarily for use as a teaching tool. Fletcher and Sheppard begin each chapter with a concise introduction, defining the common law concepts that will be discussed in the chapter. The reader is often encouraged to place the common law concept in an appropriate context with the inclusion of a civil law counterpart and historical background. Landmark decisions from U.S. courts are included throughout. The authors regularly provide “Questions and Comments” sections that challenge the reader to delve deeper into an issue, not simply by asking provocative questions, but also by adding substantive information to the discussion. Suggested reading sections provide annotated lists of selected works in a particular area of law.

¶9 The book’s twenty-nine chapters are divided into four parts. The first focuses on the similarities and differences between the common law and civil law. Part 2 examines the U.S. Constitution and discusses how many of the distinctive features of U.S. law are attributable to its constitutional history. Topics include judicial review, federalism, and the Due Process and Equal Protection clauses of the Fourteenth Amendment. The third part covers the basics of U.S. private law, emphasizing those areas of law familiar to first-year law students such as real property, contracts, and tort law. The last part of *American Law* is devoted to U.S. criminal law, with particular emphasis on a single case, *People v. Goetz*.⁵ Also included are three appendixes, highlighting case reading and briefing, the common law method, and interpretation of statutes. Finally, a detailed thirty-five-page index follows the appendixes.

¶10 The tone of the book is scholarly, and the material occasionally becomes weighty. To their credit, the authors do inject the prose with lighter moments. In chapter 15, after a lengthy discussion of the arcane terminology in real property law, the authors offer these words of encouragement, “Don’t despair!” followed by a quote from Shakespeare’s *Henry VI*, “[T]he first thing we do, let’s kill all the lawyers” (p.334).

¶11 *American Law in a Global Context* is an exceptionally well-written, thoughtfully organized, and topically relevant work. Based on materials collected

4. Rome Statute of the International Criminal Court, July 17, 1998, 2187 U.N.T.S. 3.

5. 497 N.E.2d 41 (N.Y. 1986).

over a three-year period from Fletcher's Columbia Law School teaching materials (p.ix), this book is ideally suited for LL.M. students, civil law lawyers interested in U.S. law, prospective law students, and even undergraduates. Thus, it is highly recommended for academic law libraries with an LL.M. program or any other graduate law degree program that attracts students from civil law countries. This book is challenging and not for the individual with a casual interest in the U.S. legal system. Libraries with serious pre-law students may also consider adding this book to their collection.

Fox, Lawrence J., and Susan R. Martyn. *Red Flags: A Lawyer's Handbook on Legal Ethics*. Philadelphia: American Law Institute-American Bar Association, Committee on Continuing Professional Education, 2005. 358p. \$99.

Reviewed by Elizabeth A. Greenfield

¶12 This new publication is aptly named. Small in size but wide in scope, *Red Flags: A Lawyer's Handbook on Legal Ethics* is a departure from the usual treatment of legal ethics. Instead of a rule-by-rule, heavily footnoted discussion, *Red Flags* takes everyday ethical conflicts, frames them in real world language, and provides practical strategies and resolutions to those conflicts. In those instances where a solution is not available, the authors explain why. Rules, model rules, cases, and treatises are referred to as necessary, but again, the emphasis is on actual, workable solutions to ethical problems.

¶13 Lawrence Fox is a practicing attorney and Susan Martyn is a law professor. As they explain in the preface, Fox wrote the "Questions and Answers" (Q and A) segments that open each new topic, and Martyn wrote the accompanying essays about relevant law. The result is an animated and well-supported text. A book about legal ethics, animated? Yes—the Q and A sections are written in a casual tone that quickly engages the reader, and the accompanying discussions are lively and full of answers.

¶14 Although Fox and Martyn suggest that it is directed to the busy practicing lawyer, many other legal professionals will profit from a study of *Red Flags*. Obviously, attorneys facing ethical questions in day-to-day practice will benefit, but judges should also find this book a useful gateway to more scholarly works. Another potential audience is law students enrolled in professional responsibility or legal ethics courses and those studying for the professional responsibility component of the bar examination. A soft-cover edition should put this book within the financial reach of the law student population.

¶15 Topics discussed include identifying the client, dealing with fee issues, handling conflicts matters, maintaining confidentiality, and much more. The Q-and-A sections and legal essays are supplemented with helpful charts and tables, covering, for example, disqualification standards, exceptions to client confidentiality, and written fee agreements. *Red Flags* is also well indexed, but it does cry out for tables of cases, statutes, and rules. Future updates and revisions should include them.

¶16 The authors say their target audience is the practicing lawyer, but *Red Flags: A Lawyer's Handbook on Legal Ethics* belongs in every law library and on many a desk. With its ready accessibility, tone, and depth, it should appeal to anyone dealing with legal ethics issues.

Hall, Kermit L., et al. *The Oxford Companion to the Supreme Court of the United States*. 2d ed. New York: Oxford University Press, 2005. 1239p. \$65.

Reviewed by Jerry E. Stephens

¶17 The Supreme Court of the United States remains the only court specifically mandated by the Constitution. Article III provides, in creating a judicial department, that the judicial power of the United States “shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.”⁶ Congress has seldom hesitated to address issues involving the Supreme Court, and congressional attention has ranged from the Court’s membership to its facilities, as well as to its very jurisdiction and powers. *The Oxford Companion to the Supreme Court of the United States* covers these issues and more.

¶18 At a very basic level, this is a resource where the interested reader can confidently find information about the Court, its composition, and its operations. Certainly there are alternatives,⁷ but for sheer value in a single volume, perhaps nothing compares to this second edition of Kermit Hall’s *Oxford Companion*.

¶19 Editor-in-chief Hall is currently president of the State University of New York at Albany, having previously served as president and professor of history at Utah State University. The first edition of the *Oxford Companion*⁸ received many awards, including the American Bar Association’s Gavel Award in 1993, and the new edition likely will receive similar attention.

¶20 *The Oxford Companion* is an encyclopedic dictionary, a collection of mostly short articles, arranged alphabetically by topic, that provide information on a wide range of topics related to the Supreme Court. The article on Chief Justice Rehnquist is fairly lengthy at four pages (p.832–35). The article on “judicial power and jurisdiction” is, likewise, a substantial article at ten pages (p.527–36). Generally, the Court’s decisions are treated in several paragraphs, rather than pages.

¶21 The compilation includes biographies of all the justices who have served on the Court, with the exception of new Chief Justice John G. Roberts, Jr. and Justice Samuel Alito. The appendix identifies the nominees to the Court and the justices who succeeded each. An interesting bit of trivia identifies the three family connections: John Marshall Harlan and his grandson John Marshall Harlan; Stephen J. Field and his nephew David J. Brewer; and Lucius Q.C. Lamar and distant relative Joseph R. Lamar (p.1152).

6. U.S. CONST. art. III, § 1.

7. See, e.g., ENCYCLOPEDIA OF THE AMERICAN CONSTITUTION (Leonard W. Levy & Kenneth L. Karst eds., 2000); LEE EPSTEIN ET AL., THE SUPREME COURT COMPENDIUM (2003).

8. KERMIT L. HALL ET AL., OXFORD COMPANION TO THE SUPREME COURT OF THE UNITED STATES (1992).

¶22 The revised edition contains many new articles, including thematic pieces on campaign finance and punitive damages, and commentaries on such important cases as *Bush v. Gore*⁹ and *Lawrence v. Texas*.¹⁰ The new edition reflects both the new scholarship that has addressed the nature and influence of the Court, as well as the approximately one thousand decisions issued by the Court since 1992. The editors specifically note that more than sixty articles have been added to supplement decisions released since the first edition (p.vii).

¶23 Some physical comparisons between the two editions should also be made. The first edition had 1032 pages; the second edition has 1239 pages. The second edition has eighty-four pages of index compared to the first edition's forty-one pages. The first edition listed nine pages of contributors; the second edition has eleven. The new edition is physically larger by almost one inch in each measurable direction.

¶24 The new *Oxford Companion* is a typical Oxford University Press reference tool. It is complete, comprehensive, accurate, and attractively bound. Despite continuing the rich Oxford tradition, the book is already somewhat dated. The new second edition was published too soon to note the death of Chief Justice William H. Rehnquist and, as stated earlier, his replacement by Chief Justice John Roberts. However, the editors anticipated that “[a]s this volume goes to press, . . . change seems inevitable” (p.vii). The bottom line assessment is that *The Oxford Companion to the Supreme Court of the United States* is one of those reference tools that no library should be without—even as this very dynamic institution changes.

Hall, Mark A., et al. *The Law of Health Care Finance and Regulation*. New York: Aspen Publishers, 2005. 583p. \$65.

Reviewed by Paul Moorman

¶25 The authors of *The Law of Health Care Finance and Regulation* are all law professors specializing in health care law. Not surprisingly, the case method approach is used throughout this textbook on the finance and regulation of health care in the United States. *The Law of Health Care Finance and Regulation* excerpts from and expands on their earlier textbook, *Health Care Law and Ethics*.¹¹

¶26 The authors believe the best way to understand health care law is to focus on the relationships between doctors and patients, the state, and the institutions that surround the treatment relationship. The organization of the book reflects this belief. The first chapter describes the nature of medical practice and the system by which it is delivered. The second chapter discusses provider and managed care liability. The third chapter covers health insurance and health care reform. The last chapter addresses a hodgepodge of issues such as facility regulation, corporate medical institutions, medical staff structure, antitrust, and referral fee laws. Sections within each

9. 531 U.S. 98 (2000).

10. 539 U.S. 558 (2003).

11. MARK HALL ET AL., HEALTH CARE LAW AND ETHICS (6th ed. 2003).

chapter include excerpts from cases and other materials followed by comments and questions for further thought and discussion. A teacher's manual providing instruction on developing a syllabus and directing class discussion is also included.

¶27 Although this textbook would be a good choice for a law school course on health care finance and regulation, it is not recommended for purchase by any library because its value as a research or reference tool is limited. A hornbook or treatise on the topic would better serve those purposes. Overall, the selection of cases and materials used to represent the concepts underlying the health care financing and regulatory system is satisfactory. The editing of the cases and materials is accurate and focused. The notes and questions following each case are thought-provoking and relevant. The index to the book is short, but adequate for a casebook. The glossary of organizational terms and acronyms is particularly helpful, because understanding the numerous acronyms in this field is an important part of learning how to navigate the system.

¶28 The only complaint of note relates to the quality of the printing. The first copy I reviewed contained dozens of pages that were almost illegible due to blurry letters. The print quality of the second copy was much better, though many pages were still blurry. A reader deserves clear print, even at the lower price of sixty-five dollars for a softbound textbook.

¶29 On a personal note, having practiced law in this field for ten years before becoming a law librarian, I am pleased that the subject is receiving some attention from the law school community. At the same time, I long for the day when real and meaningful health care reform takes place in this country, thus making much of the discussion in this book an artifact of a bygone era. In the meantime, a need exists for attorneys trained in the complicated area of health care finance law and regulation, and *The Law of Health Care Finance and Regulation* is a step in the right direction.

Neacsu, Dana. *Introduction to U.S. Law and Legal Research*. Ardsley, N.Y.: Transnational Publishers, 2005. 186p. \$75.

Reviewed by David Rogers

¶30 *Introduction to U.S. Law and Legal Research* is aimed at the LL.M. student who is familiar with legal concepts, but not necessarily with their application in a U.S. legal context. After introducing the basic, concrete elements of the rule of law, Neacsu moves on to methods for researching scholarly resources to locate explanations of the law. Chapters on statutory, decisional, and administrative law, as well as resources for finding materials, conclude the title.

¶31 The text is highly readable. Some of the cultural references may eventually become dated, but the examples are explained to such a degree that future confusion will be minimized. Comparing the bases of the United States and United Kingdom legal systems is particularly helpful. The context for the differences is explained in detail by examining when the two systems diverged.

¶32 *Introduction to U.S. Law and Legal Research* provides a valuable adjunct to the reference matrix of state/federal, civil/criminal, and statute/procedure, particularly for readers who are not familiar with U.S. legal processes. It is hoped that a law firm summer associate brings sufficient background experience and knowledge so as not to require the types of explanations that are provided by the book. For an LL.M. student or a foreign lawyer seeking exposure to the quirks of the U.S. legal system, however, the examples are highly useful.

¶33 As is the nature of any book, some of the secondary source examples are now superseded by new titles. Similarly, some of the tools listed as being available from one major online service have been transferred to another. To its credit, the book outlines the steps involved in updating legal research. Inclusion of no-cost online tools like FindLaw (www.findlaw.com) and LexisOne (www.lexisone.com) is appreciated, but some of the smaller sites like LawMoose (www.lawmoose.com) and LawGuru (www.lawguru.com) would enhance researchers' options, particularly if they are located overseas. Reference to the lower-cost alternatives to LexisNexis and Westlaw like VersusLaw (www.versuslaw.com) and LoisLaw (www.loislaw.com) also would be helpful and should not be overlooked.

¶34 Neacsu covers the topic thoroughly, and purchase is recommended for libraries that need an undergraduate primer to the U.S. legal system or who serve foreign attorneys or LL.M. students. Additionally, the discussion of the differences between the U.S. and U.K. legal systems and civil law and common law jurisdictions make this title useful for American law librarians who must occasionally research U.K. and European laws.

Porrata-Doria, Rafael A., Jr. *MERCOSUR: The Common Market of the Southern Cone*. Durham, N.C.: Carolina Academic Press, 2005. 228p. \$45.

Reviewed by John Wilson

¶35 As regional trade organizations play a strong role in the world economy, the Southern Common Market or MERCOSUR is a worthy subject for an English-language book, and *MERCOSUR: The Common Market of the Southern Cone* is a good beginning. Porrata-Doria has attempted a comprehensive work based largely on primary MERCOSUR documents in Spanish and Portuguese. It is best suited to students of international trade, but it also can be of use to a librarian as a reference guide.¹² The topics covered by the book provide a framework for understanding MERCOSUR, as well as other regional trade organizations.

¶36 Chapter 1 surveys the background of economic integration in Latin America. In summary, Argentine economist Raul Prebisch, the president of the

12. For example, four appendixes reproduce, in English, the basic MERCOSUR documents: Treaty of Asunción, Mar. 26, 1991, 30 I.L.M. 1041; Protocol of Ouro Preto Regarding the Institutional Structure of MERCOSUR, Dec. 17, 1994, 34 I.L.M. 1244 (1995); Protocol of Brasilia for the Solution of Controversies in MERCOSUR, Dec. 17, 1991, 36 I.L.M. 691 (1997); and Olivos Protocol for the Settlement of Disputes, Feb. 18, 2002, 42 I.L.M. 2.

United Nations' Economic Commission for Latin America, was the theoretical voice behind the movement toward economic integration. He believed that the Latin American countries should undertake import substitution and economic integration as a path to development. This led to the creation of the Latin American Free Trade Association (LAFTA). LAFTA was created in 1960 and ended in 1980. Despite the failure of LAFTA, economic integration remained a viable objective. In 1980, the Latin American Integration Association was created. This institution was the seed for the development of MERCOSUR. The four countries of MERCOSUR—Argentina, Brazil, Paraguay, and Uruguay—based their effort at economic integration as a function of historical ties or of complementary economic ties.

¶37 Chapter 2 describes the series of agreements leading to the Treaty of Asunción,¹³ and then discusses the institutions established by the treaty. The Council of the Common Market¹⁴ is the most important and powerful MERCOSUR institution. The council directs the integration process and makes decisions to ensure the objectives of the Treaty of Asunción (p.28).

¶38 Chapter 3 discusses the dispute resolution process which, together with the appellate procedures, functions as arbitration proceedings. This process has produced only seven decisions and, according to the author, will not likely produce a coherent body of jurisprudence. The system to enforce the arbitral awards is also weak.

¶39 Chapter 4 describes the trade regulation system, and chapter 5 is devoted to a sampling of the legal structure. The issues addressed include investment, securities regulation, and competition law. These legal measures have been established by a series of protocols, and member states are required to implement these measures into their domestic legal systems.

¶40 The next two chapters explore the MERCOSUR's trade relations with other countries. Chile and Bolivia joined MERCOSUR as associate members in 1994. Chile has a strong economy and has gained benefits from its ties to MERCOSUR. Bolivia, with a less developed economy, poses a challenge for MERCOSUR's institutions. Full membership in MERCOSUR remains an issue for both countries.

¶41 Much discussion revolves around the relationship between MERCOSUR and the European Union, and the author suggests that negotiations have moved at a slow pace. Porrata-Doria also indicates that MERCOSUR has considered possible ties to the Free Trade Area of the Americas (FTAA) and that it has received interest from individual countries from around the world.

13. Treaty of Asunción, *supra* note 12.

14. The other MERCOSUR institutions are the Common Market Group, the MERCOSUR Commerce Commission, the Joint Parliamentary Commission, the Economic and Social Consultative Forum, the Administrative Secretariat, the Permanent Appellate Tribunal, and the Committee of Permanent Representatives.

¶42 Chapter 8, the concluding chapter, discusses developments in MERCOSUR, including its relaunch, changes to its institutions, and its 2004–06 work plan. The relaunch featured an “agreement by the economic ministers and central bank presidents of the member states to harmonize their statistics and to engage in macroeconomic coordination to establish ‘convergence criteria’ on fiscal policies, prices and public debt” (p.157). Planning for institutional change includes efforts to create a technical secretariat and to strengthen the Parliament. The approval of the Olivos Protocol on dispute resolution created the expectation that the Permanent Appellate Tribunal would be functioning by January 1, 2004. The work plan covers programs related to economic, social, and institutional development.

¶43 *MERCOSUR: The Common Market of the Southern Cone* achieves its goal of describing the constituent documents of MERCOSUR. Purchase is recommended for academic libraries that support Latin American studies programs and academic law libraries that support instruction in international trade.

Rice, Paul R. *Electronic Evidence: Law and Practice*. Chicago: Section of Litigation, American Bar Association, 2005. 387p. \$95.

Reviewed by Kristin A. Henderson

¶44 American Bar Association (ABA) publications are generally appealing because they provide sound, reliable information at relatively low cost. *Electronic Evidence: Law and Practice* is no exception. It focuses on electronic evidence that arises in the context of electronic commerce and other electronic transactions. This evidence can take many forms, including e-mails, Internet postings, access control data, and residual data that remains on hard drives after files are deleted. Author Paul Rice, professor of law at the American University Washington College of Law, is an expert on evidence, but readers may also recognize him as the author of a treatise on attorney-client privilege or a variety of other works.¹⁵

¶45 Although the primary focus of *Electronic Evidence* is electronic evidence, the book does begin with a chapter on electronic discovery, written by David Kerwin, an attorney practicing in Washington. Lengthy chapters on spoliation of evidence, confidentiality, and attorney-client privilege follow. Other chapters are devoted to such evidentiary issues as presumptions, authentication, hearsay, and judicial notice.

¶46 This book works from several perspectives. First, it is a comprehensible overview both of the evidentiary issues that may arise if a party seeks to use electronic evidence and of the issues surrounding the use of electronic evidence that remain untested or unresolved. As Rice points out, the problems presented by electronic evidence have received no special attention in the Federal Rules of Evidence. The book’s utility is enhanced by its table of contents, a short overview

15. PAUL R. RICE, *ATTORNEY-CLIENT PRIVILEGE IN THE UNITED STATES* (2d ed. 1999).

presented at the beginning of each chapter, and plenty of references in the copious and detailed footnotes (as well as citations inserted in the text to relevant Federal Rules of Evidence). Finally, the book provides handy practical information, such as sample discovery requests and an excellent privilege checklist.

¶47 *Electronic Evidence* will be a useful resource in any litigation context involving electronic evidence, including criminal prosecutions. Also, business attorneys and in-house counsel are encouraged to read the book. Rice offers a number of useful practice tips for preserving and properly asserting the privilege in the event that e-mails someday prove to be responsive to a discovery request. However, this is not the resource, and Rice does not suggest that it is, to recommend to the reader seeking detailed technical information about electronic evidence and all of the forms it might take.

¶48 A common reservation about ABA titles is that they are not regularly updated. *Electronic Evidence: Law and Practice* was written before the Judicial Conference approved the “electronic discovery” amendments to the Federal Rules of Civil Procedure. As of December 2005, the publisher did not plan to update the title within the next year. Despite the likelihood that this book will quickly become outdated, I would recommend it for all types of law libraries. *Electronic Evidence: Law and Practice* will still be very useful—its focus is evidentiary rather than discovery issues, and in any event, much of the information relating to discovery will continue to be useful if the new rules do go into effect in December 2006.

Schwartz, Michael Hunter. *Expert Learning for Law Students*. Durham, N.C.: Carolina Academic Press, 2005. 294p. Paper, \$27.

Schwartz, Michael Hunter. *Expert Learning for Law Students Workbook*. Durham, N.C.: Carolina Academic Press, 2005. 172p. Paper, \$20.

Reviewed by Nanette Kelley Balliot

¶49 The premise of *Expert Learning for Law Students* is that successful law students, unlike their less successful law school peers, possess certain knowledge and skills that make them “expert learners” (p.3). The book and accompanying workbook, authored by Charleston School of Law Professor Michael Hunter Schwartz, are the products of his research into what makes law students expert learners and how to teach law students to become expert learners. Both are designed to be used by first-year law students to improve their study skills.

¶50 The main volume is divided into two parts. The first describes the basic principles of learning and discusses how law is taught, how students learn the law, how individuals learn generally, and different personality types and learning styles. Several chapters are devoted to the concept of the self-regulated learning cycle in which the expert learner is actively engaged in learning the material. Chapters cover each phase of the cycle: forethought, performance, and reflection.

¶51 The second part discusses various learning strategies for reading and briefing court opinions, improving classroom instruction, memorizing large quantities

of information, learning legal analysis, and preparing for and taking law school examinations. Schwartz gives advice on seeking help from peers and professors. Chapters include tips on how to use course outlines and charts to organize legal concepts, strategies for learning legal research and writing, and advice for family and friends of law students.

¶52 Each chapter has several “Reflection Questions” designed to inspire readers to reflect on their own learning experiences in addition to the concepts covered in that chapter. At the conclusion of each chapter is a “References” section listing relevant articles and books. The author also includes a sufficiently detailed index and helpful appendixes. Appendix A consists of a Time Management/Self-Monitoring Log for the reader to photocopy and use during the academic year. Appendix B contains the opinion portion of *Parker v. Twentieth Century-Fox Corporation*¹⁶ in two forms: as excerpted in a casebook and as printed in full in a case reporter.

¶53 The workbook restates the “Reflection Questions” from the book next to sufficient space for readers to write down their answers. Schwartz includes sixteen sets of exercises for the reader to complete. Their purpose is to provide the reader with the opportunity to review concepts and reinforce strategies covered in each chapter.

¶54 *Expert Learning for Law Students* and the accompanying workbook are reader-friendly, well organized, and unique among the various available texts introducing students to the study of law because of their detailed focus on learning strategies and the opportunity provided the reader for both reflection on and practice with these strategies. Both are recommended for academic law library collections.

Shaw, Russell, and Dave Mercer. *Caution! Music & Video Downloading: Your Guide to Legal, Safe, and Trouble-Free Downloads*. Indianapolis: Wiley Publishing, 2005. \$19.99.

Reviewed by Darin K. Fox

¶55 With more than thirty-six million Americans—or 27% of Internet users—now downloading music and video on the Internet, it is increasingly important to understand the risks involved with file sharing and the options available to get the most for your money.¹⁷ *Caution! Music & Video Downloading*, by Russell Shaw and Dave Mercer, provides analysis and advice and is designed to help readers protect themselves from online risks and to select the best method for downloading music on the Internet. It is written in an informal style with a layout similar to that of the popular “Dummies” guides, making it easy to browse the book and find sections

16. 474 P.2d 689 (Cal. 1970).

17. Mary Madden & Lee Rainie, Pew Internet & American Life Project, Music and Video Downloading Moves Beyond P2P, at 1 (Mar. 23, 2005), http://www.pewinternet.org/pdfs/PIP_Filesharing_March05.pdf.

that are of interest. Experienced and novice readers alike will gain a better understanding of how to safely and legally download music.

¶56 *Caution!* is divided into three parts. Part 1 focuses on choosing the right music downloading service. After explaining some of the basic terminology associated with file sharing and downloading, Shaw and Mercer describe the primary risks associated with downloading music from the Internet. For instance, the service used may increase the likelihood of downloading a file that contains a virus or is being illegally distributed. Next, the book distinguishes commercial downloading services, such as iTunes, from peer-to-peer file-sharing services, such as Kazaa. As a somewhat experienced iTunes user—“experienced” meaning I have used the service for more than a year or more than half of that service’s existence—I did not expect to learn anything new about downloading music from commercial Web sites. I was wrong.

¶57 The number of commercial download sites continues to grow, and the features they offer are evolving quickly. Part 1 contains a helpful summary of the various commercial music download sites with details about their features, costs, permitted uses, and privacy policies. I discovered a commercial music site that focuses on helping people shop for music the way *I* like to shop for music—by recommending new music based on a list of genres, bands, and songs that I like.

¶58 Part 1 concludes with a detailed discussion of peer-to-peer file-sharing services, such as Kazaa, Morpheus, Bearshare, and the more recent eDonkey and BitTorrent networks. These applications allow you to trade files for free with other users on the Internet. The authors describe the features of each service and explain how to obtain and install the required software. They also outline the potential risks associated with using these services and provide tips on how to protect yourself from security risks and privacy concerns. Some of these risks, such as identity theft, copyright violations, and certain computer viruses, can cause great harm to you or your computer.

¶59 The second part of *Caution!* could readily be divided into two sections. The first chapter explains the computer hardware and software used in downloading music. Particular attention is focused on the types of files that are downloaded to your PC when buying music online and file management. Shaw and Mercer begin this section by explaining some of the technical hardware and software terms that come into play, no pun intended, when downloading music. From basics like RAM, motherboards, and gigabytes to more advanced concepts like hard drive maintenance, file extensions, user permissions, video codecs, and 2.1 versus 5.1 speakers, the authors provide an in-depth crash course in understanding your computer. They also provide a glossary of technical terms at the back of the book.

¶60 The remainder of part 2 provides extensive information on the types of threats associated with file sharing and music downloading and how to protect your computer, your network, your privacy, and yourself (legally). First, the authors outline the various types of security problems that users can encounter when downloading music on the Internet, such as viruses, worms, spyware, scams,

pop-up ads, and identify theft. The next three chapters provide advice on how to avoid these threats. The authors recommend specific software programs that work to minimize viruses, spam, and pop-ups. They also explain how to configure Microsoft Windows to reduce potential security problems. Since most online vendors make use of the information you provide to them, the authors next explain how to identify vendors that have privacy policies that minimize the distribution of your information. They finish with a look at copyright law and the penalties for illegally trading music on file-sharing services like Kazaa.

¶61 *Caution!* concludes with a strategy for selecting a portable music player. After all, do you want to be chained to a computer to listen to music you just downloaded? Step-by-step instructions describe how to get started with iTunes, how to purchase music, and how to transfer music to an iPod.

¶62 At a modest cost of less than twenty dollars, *Caution! Music & Video Downloading: Your Guide to Legal, Safe, and Trouble-Free Downloads* is a useful addition to any library, especially academic libraries since universities are the site of so much music downloading—both legal and illegal. For beginners, it includes basic discussions of how computers work, which online music services are available (commercial and peer-to-peer file-sharing networks), step-by-step installation instructions, and advice on how to protect against potential threats online. For more experienced music downloaders, it provides a thoughtful overview of the commercial and P2P services available and important advice on issues such as copyright, privacy, and security. Finally, the section describing the various portable, digital music players is of potential interest to anyone in the market for one of these gadgets—that is, at least until the next generation of new devices arrives, which is just around the corner.

van Geel, T. R. *Understanding Supreme Court Opinions*. 4th ed. New York: Longman, 2005. 176p. Paper, \$41.20.

Reviewed by Christine Ciambella

¶63 My initial reaction to *Understanding Supreme Court Opinions* was “where was this when I was in law school?” Alas, the first edition¹⁸ arrived a year too late to help me. Since then, T. R. van Geel has updated this handy little volume to include recent rulings by the Supreme Court on important topics like affirmative action and educational vouchers.

¶64 The book begins with a brief overview of Supreme Court history and procedure. van Geel then explains the five basic supervisory functions of the Supreme Court: “Supervisor of the Boundaries of Executive, Legislative, and Judicial Authority,” “Umpire of Federal-State Relations,” “Supervisor of the Government’s Relationship to the Individual,” “Enforcer of Government Evenhandedness: Equal Protection,” and “Supervisor of Government’s Relationship with Religion.” These

18. T.R. VAN GEEL, UNDERSTANDING SUPREME COURT OPINIONS (1991).

functions provide a foundation for discussion of the types of issues most commonly presented to the Court.

¶65 The balance of the book explores the mechanics of drafting Supreme Court opinions and explains such concepts as standards of review and precedents and how they are incorporated into Supreme Court opinions. The last chapter suggests how to read and understand a Supreme Court opinion by walking the reader through a sample case.

¶66 This well-organized book includes a useful table of contents and index. However, it is not without its flaws. The table of cases lists the full citation of cases used as examples in the book but does not refer the reader back to the text. It is, for example, impossible to determine the pages containing the discussion of any individual court opinion. This minor flaw could be easily remedied and I hope it will be in future editions.

¶67 *Understanding Supreme Court Opinions*, the outgrowth of an essay written to assist undergraduate students new to reading Supreme Court opinions, is very easy to understand. The author's background in law and education makes him a credible guide to the mysteries of Supreme Court opinions. The text is appropriate for law students, particularly those without any previous exposure to legal reasoning, and is highly recommended for both academic and public law libraries.

Waller, Spencer Weber. *Thurman Arnold: A Biography*. New York: New York University Press, 2005. 273p. \$40.

Reviewed by Timothy Kearley

¶68 Ordinarily not fond of biographies, I probably would not have read this one had I not agreed to review it because of Thurman Arnold's connection to my state and law school. While aware that Arnold, who grew up in Laramie and taught as an adjunct faculty member at the University of Wyoming, College of Law during its earliest years, headed the Antitrust Division of the Justice Department during the New Deal and was a founding partner of the renowned Arnold & Porter law firm, I had no idea what an interesting character the man was. He worked with numerous movers and shakers in legal academia and government and played a significant role in many major events in twentieth-century America.

¶69 As author Spencer Waller points out, Arnold played many roles during his lengthy career, any one of which would constitute a worthy career for most lawyers: law professor and dean, significant Legal Realist and best-selling author, major player in the New Deal, friend to such luminaries as William O. Douglas and Abe Fortas, federal appellate court judge, and high-profile defender of civil liberties during the McCarthy era—the latter while simultaneously building a law firm that represented Coca Cola and other well-heeled clients.

¶70 Waller does a good job of showing how growing up and then practicing law in a small Western town when locally owned, small businesses—his primary clients—were being forced out by large Eastern corporations, helped shape Arnold's

antitrust attitudes. His extensive reading of Arnold's papers and letters provides him with a wealth of humorous anecdotes that he spreads judiciously throughout the work. The portrait Waller draws of Arnold's small town boyhood and service as both a state representative and mayor of Laramie make all the more interesting the story of Arnold's later success at the highest levels of legal academia, government, and legal practice.

¶71 While on the faculty of the Yale Law School, Arnold's colleagues included Arthur Corbin, Leon Green, James Fleming, and other scholars whose names are still recognized. He became an important member of the Legal Realist movement, of which Yale was the center. Arnold gradually parted company with that movement, and the works for which he is best known read more like critical legal studies texts. In his first book, *Symbols of Government*,¹⁹ Arnold denies that institutions can follow consistent, systematic principles and claims that the manipulation of symbols is the point of government and the legal system. The work Waller sees as Arnold's legacy, *The Folklore of Capitalism*,²⁰ examines capitalism as a creed and the myths that have been created to persuade people to identify with it. Waller indicates the latter book was a minor best seller and made Arnold well known outside the confines of academia.

¶72 Arnold's wider fame and his many contacts within the New Deal caused President Roosevelt to nominate him to head the Justice Department's Antitrust Division in 1938. Waller, who teaches antitrust law at Loyola University Chicago, does a particularly good job of describing the division's lowly status at the time, explaining the approach to antitrust enforcement Arnold inherited, and showing how he changed both. By the time Arnold left the Antitrust Division in 1943, he had overseen a quadrupling of its budget and an increase in staffing from eighteen to five hundred, and had raised its visibility enormously.

¶73 Waller's account of Arnold's life in Washington, D.C., includes interesting tales of Arnold's drinking-buddy relationship with William O. Douglas, information about how Abe Fortas became Lyndon Johnson's long-time advisor and selection for the Supreme Court by helping Johnson fend off a challenge to his victory in the Texas senatorial primary of 1948, and several other stories. These anecdotes are well told and help keep the narrative from becoming a static recital of big events.

¶74 One of the most exciting periods came rather late in Arnold's career when, shortly after founding Arnold, Fortas & Porter (later Arnold & Porter), he spent thousands of pro bono hours defending hundreds of clients who became entangled in Executive Order 9835.²¹ The order required a loyalty investigation of every civilian who took an executive branch job, and the administrative process by which it was executed left much to be desired in fundamental fairness. The firm handled all but one of these cases pro bono.

19. THURMON W. ARNOLD, *THE SYMBOLS OF GOVERNMENT* (1935).

20. THURMON W. ARNOLD, *THE FOLKLORE OF CAPITALISM* (1937).

21. 3 C.F.R. 627 (1943–48).

¶75 Despite engaging in this controversial work, Arnold's firm became a model for the modern D.C. law firm. It was extremely well connected politically (Arnold celebrated his seventieth birthday at the White House), had numerous wealthy clients, and prospered through changes in administrations. Waller credits Thurman Arnold for much of the firm's success, though he acknowledges the talents of Porter and Fortas and notes how the skills of each complemented those of the others.

¶76 In sum, *Thurman Arnold* effectively relates the life of a fascinating character whose career involved him in many important moments of modern American legal history. It should be especially interesting to law students, who will benefit from learning how such august figures as U.S. Supreme Court justices and law firm senior partners remain very human.