

# RICHARD BALES

Mobile: 859-442-8837

Email: r-bales@onu.edu

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

Home: Ada, OH

## EDUCATION

**J.D.** Cornell Law School (1993), *magna cum laude*, *Order of the Coif*

**B.A.** (political science), Trinity University (1990), *cum laude*

## WORK HISTORY

- **Ohio Northern University Law**, 2013-present.
  - Dean, 2013-17.
  - Visiting Professor.
    - China University of Political Science & Law /2023-present (Beijing).
    - Peking School of Transnational Law / 2020-21, 2024 (Shenzhen).
    - St. Louis University Law School, spring 2025.
    - University of Akron Law School / 2018-20.
- **Northern Kentucky University Chase College of Law**, 1998-2013. Assoc. Prof since 2001; Prof. & Tenure since 2003.
  - Founding Director, Advocacy Center, 2009-13.
  - Associate Dean for Faculty Development, 2007-09.
  - Interim Dean, 2006.
  - Co-Founding Director, ADR Center (interdisciplinary), 2005-13.
- **Visiting Assistant Professor**, U. Montana (1998), Southern Methodist University (1996-97).
- **Law practice:** Baker & Hostetler, 1995-96; Baker & Botts, 1993-95.

## DECANAL EXPERIENCE - ONU

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

- Built friend- and fundraising program; doubled annual alumni giving in 3 years.
- Obtained ABA re-accreditation with no significant issues.
- Law School budget always stayed black, notwithstanding significant University budget cuts.
- Increased diversity of faculty and students.
- Brought all stakeholders together to create a Strategic Plan, one critical component of which was a Bar Pass Plan.

## TEACHING EXPERIENCE

My teaching style is rigorous but participatory. I use problem-based simulations in many of my courses, and my approach to full-course simulations has led to speaking invitations at law schools throughout the world. I have re-designed many of my courses so they can be taught equally effectively online. My ADR courses can be taught doctrinally or as skills courses, and can be customized to fit particular programs (e.g., commercial, family, labor/employment, or sports law). Courses I have taught recently include:

- Torts
- Civil Procedure
- Property
- Employment/Labor/Discrimination/International Labor Law
- ADR/Negotiations/Mediation/Arbitration
- Legal Pedagogy (for LL.M. students who will become law faculty).
- Competition teams: Arbitration, Client Counseling, Negotiation, Moot Court

## CHINA

- Teaching:
  - Peking School of Transnational Law / 2020-21 & 2024 (Shenzhen).
  - China University of Political Science & Law / 2023-24 (Beijing).
- ADR
  - Arbitrator, Beijing Arbitration Commission/ Beijing International Arbitration Center, Eighth Panel.

## COMMUNITY SERVICE

- Lima Symphony Orchestra Board Member, 2021-present; Vice Chair 2023-present
- Allen County Regional Transit Authority, Board Member, 2023-present

## ABA ACTIVITY

- ABA Accreditation: Site Evaluation Team or Chair, or Site Inspector, on 14 accreditation-related visits since 2017.
- Competitions Committee Member (Committee runs 4 ABA student competitions) & Negotiation Subcommittee Member, 2010 – Present; Chair of Negotiation Subcommittee 2012-16, 2022-23.
- Editor, International Labor & Employment Law Committee Newsletter, 2015-21.
- Writing Competition Judge
  - ABA-College of Labor/Employment Lawyers student competition, 2017-20.
  - ABA Boskey student ADR competition, 2015-present.
  - AALS ADR Scholarly Article competition, 2017-present.

## OTHER PROFESSIONAL ASSOCIATIONS & ACTIVITIES

### **Fellow or Elected Member**

- American Law Institute, since 2010.
- American Bar Foundation, since 2013.
- National Academy of Arbitrators, since 2019
- Beijing Arbitration Commission/ Beijing International Arbitration Center
- Abu Dhabi Global Market Arbitration Centre
- Council for Higher Education Accreditation, since 2024
- Labor arbitration panels include FMCS, AAA, State Employment Relations Board (Ohio), National Mediation Board, Houston Police Department, City of Columbus & Fraternal Order of Police, Michigan Employment Relations Commission, Michigan Civil Service Commission Ad Hoc Hearing Officer, Minnesota Bureau of Mediation Services, Lockheed-Martin/IAM (Fort Worth), Cleveland-Cliffs Inc. (AK Steel)/IAM, USDA Food Safety / Inspection Service & AFGE.
- College of Labor & Employment Lawyers, since 2020.
- Labor Law Group, 1999-present (Treasurer 2011-19); Executive Committee 2010-19).
- International Society for Labour and Social Security Law, since 2010 (Chair, U.S. Branch, since 2018).

### **Peer Reviewer**

- **Cambridge University Press**
  - 2016, Nestor Davidson et al., Cambridge Handbook on the Regulation of the Sharing Economy.
  - 2017, Paul Harpur, Ableism at Work: Law, Disability, and Hierarchies of Impairments.
  - 2018, Miriam A. Cherry, Digilantes, Labor Activists, and Whistleblowers: Seeking Rough Justice in Cyberspace.
  - 2019, Angela Cornell & Mark Barenberg, The Cambridge Handbook of Labor and Democracy.
- **Relations Industrielles / Industrial Relations**, peer reviewed labor journal at Université Laval in Quebec City, Canada (I serve as Editorial Committee Member and peer reviewer; I review 3-4 article submissions/year).
- **Yale Law Journal**, peer reviewer for *Discrimination by Algorithm: Employer Accountability for Biased Customer Reviews*.

### **Fulbright Specialist**

- Monash University, Kuala Lumpur, Malaysia, 2010.
- University of Tarumanagara, Jakarta, Indonesia, 2013.

### **Professional Training Provided**

- Cambodia Arbitration Council, Evidentiary Issues and Employment Contracts, December 2022.
- Ohio Education Association, Evidence Issues in Labor Arbitration Hearings; Burdens of Proof in Grievance Resolution; Opening Statements; Post-Hearing Briefs; Exhibits; Witness Credibility; Preparing for a Hearing; Cross Examination (2022-24).
- Kentucky Administrative Office of the Courts, Mediation Training offered through NKY ADR Center, May 23, 2022.

## **PUBLICATIONS**

### **Books**

## ADR in the Workplace

- First Edition, co-authored with Laura J. Cooper and Dennis R. Nolan, West 2000.
- Second Edition, co-authored with Laura J. Cooper and Dennis R. Nolan, West 2005.
- Third Edition, co-authored with Laura J. Cooper, Dennis R. Nolan, and Stephen F. Befort, West 2014.
- Fourth Edition, co-authored with Laura J. Cooper, Dennis R. Nolan, Stephen F. Befort, Lise Gelernter, and Michael Z. Green, West 2020.

## Arbitration Law

- Second Edition, co-authored with Katherine Stone, Foundation Press 2010, with Teacher's Manual.
- Third Edition, co-authored with Katherine Stone and Alexander Colvin, Foundation Press 2015.
- Fourth Edition, co-authored with Katherine Stone and Alexander Colvin, Foundation Press 2021.
- Fifth Edition, co-authored with Katherine Stone, Alexander Colvin, and Blair Druhan Bullock, Foundation Press, 2024.

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

Compulsory Arbitration: The Grand Experiment in Employment, Cornell University ILR Press 1997.

## Employment Law

- Fifth Edition, co-authored with Richard R. Carlson, Michael C. Duff, and Dallan F. Flake, Aspen 2023.

The Federal Arbitration Act: Successes, Failures, and a Roadmap for Reform (Cambridge University Press, in progress, forthcoming 2024), to be co-authored with Jill I. Gross.

## Labor & Employment Arbitration in a Nutshell

- Third Edition, co-authored with Dennis R. Nolan, West 2017.
- Fourth Edition, co-authored with Dennis R. Nolan, West 2020.

## Labor Law: Collective Bargaining in a Free Society

- Sixth Edition, co-authored with Dennis R. Nolan, West 2009, with Teacher's Manual.
- Seventh Edition, co-authored with Dennis R. Nolan & Raphael Gely, West 2018, with Teacher's Manual.
- Eighth Edition, co-authored with Dennis Nolan, Raphael Gely & Brad Areheart, West 2024.

## Understanding Employment Law

- First Edition, co-authored with Jeff Hirsch and Paul Secunda, LexisNexis 2007.
- Second Edition, co-authored with Jeff Hirsch and Paul Secunda, LexisNexis 2013.
- Third Edition, co-authored with Jeff Hirsch and Paul Secunda, LexisNexis 2019.
- Fourth Edition, co-authored with Jeff Hirsch and Paul Secunda, LexisNexis 2024.

Workplace ADR Simulations and Teaching Guide, co-authored with Laura J. Cooper, Anne M. Radolinski, Stephen F. Befort, Lise Gelernter, and Michael Z. Green, West 2020.

## Book Chapters

*The Historical Context of Lisa (Bingham) Amsler's Empirical Work on Employment Arbitration*, Discussions in Dispute Resolution (Oxford University Press, Art Hinshaw, Sarah Cole & Andrea Schneider, eds., 2021).

*COVID-19 and U.S. Labour Law*, Legal Responses to Covid-19 Around the World, Cláudio Jannotti da Rocha, Flávia Fragale Martins Pepino, & Rafael Lara Martins, eds. (Lex-Magister [Brazil], 2020) (co-authored with Christopher Elko).

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

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

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

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

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

## Articles

[COVID-Related Arbitration Awards in the United States and Canada: A Survey and Comparative Analysis](#), 37 Ohio St. J. Disp. Resol. 1 (2022).

*K-12 Nontraditional Bargaining in a Time of Covid: Building Solidarity Between Movements through Shared Grievances*, 20 Seattle J. Social Justice 501 (2022) (co-authored with Ben Waldron).

[Novel Issues in Canadian Labour Arbitration Related to COVID-19](#), 13 Arbitration L. Rev. (2021).

*The Invisible Web at Work: Artificial Intelligence and Electronic Surveillance in the Workplace*, 41 Berkeley J. Lab. & Employ. L. 1 (co-authored with Kathy Stone (UCLA)) (2020).

*The Worldwide Response to Covid-19 Through a Labor/Employment Law Lens*, 51 Cumberland L. Rev. 147 (2020-21) (co-authored with Christopher Elko).

*The Economics of Labor Law in Thailand, Viet Nam, and the United States*, 1 Tap Chi Luật Học [Hanoi L. Rev.] (2022) (co-authored with Trần Thị Kiêu Trang and Panthip Pruksacholavit).

*What Makes a "Reasoned" Arbitration Award?*, 12 Arbitration L. Rev. 81 (2020) (co-authored with Steven Hooten), available at <https://elibrary.law.psu.edu/arbitrationlawreview/vol12/iss1/3/>.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## Essays

*Arbitration vs. Litigation: Take-Aways from a Recent Study of Commercial Judges and Arbitrators*, 49 ABA Labor & Employment Law Newsletter (Summer 2021),  
[https://www.americanbar.org/groups/labor\\_law/publications/labor\\_employment\\_law\\_news/summer-2021-issue/arbitration-vs-litigation/](https://www.americanbar.org/groups/labor_law/publications/labor_employment_law_news/summer-2021-issue/arbitration-vs-litigation/).

Richard A. Bales, *Zoom v. In-Person Arbitration Hearings*, 49 ABA Labor & Employment Law Newsletter (Winter/Spring 2021),  
[https://www.americanbar.org/groups/labor\\_law/publications/labor\\_employment\\_law\\_news/winter-spring-2021-issue/zoom-vs-inperson/](https://www.americanbar.org/groups/labor_law/publications/labor_employment_law_news/winter-spring-2021-issue/zoom-vs-inperson/).

*Employment Protection for Sexual Orientation and Gender Identity*, Ohio State Bar Association's Labor and Employment Law Newsletter (winter 2021) (co-authored with Morgan Schweighoefer) (lead article).

*COVID-Related Labour Issues Arising Under Collective Labour Agreements in the United States*, Contemporary Labour L. Rev. \_\_\_ (forthcoming 2021).

*The Current Status of [Online?] Labor Arbitration* (June 2020) [Workplace Prof Blog](#), [Indisputably, Arbitrate.com](#), [Arbitrationinfo.com](#).

*COVID-19 and Labour Law: U.S., Italian Labour Law* e-Journal (April 2020),  
<https://illej.unibo.it/article/view/10807>. Updated July 2020 in version co-authored with Christopher Elko.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **Publications by Students**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

### Recent Presentations

- *Arbitration in China*, ADR WIP Conference, October 2024, Sacramento.
- *AI in Arbitration*, National Association of Railroad Referees, September 26, 2024, Chicago.
- *Using AI to Teach LEL and ADR*, Colloquium on Scholarship in Employment & Labor Law, September 13, 2024, San Diego.
- *AI in Arbitration*, Arbitrator-Advocates Symposium, September 6, 2024, Columbus OH.
- *Past Practice*, Ohio Conference of Teamsters Annual Meeting, August 14, 2024.
- *AI in Mediation*, Jingsh Law Firm, May 24, 2024.
- *AI in the American Law School Classroom: One Approach to a Labor/Employment Law Seminar Course*, World Jurists Forum (May 16, 2024), Beijing.
- *AI and Employment Law*, presentation at China University of Political Science and Law, Beijing, March 12, 2024.
- *AI in the Workplace*, NAA Michigan Region Seminar on Artificial Intelligence for Arbitration & Arbitrators, Southfield, Michigan, January 11, 2024.
- *The Potential Impacts of Artificial Intelligence on the Workforce*, COLERA (Columbus LERA), November 21, 2023.
- *The Future of Work: A-I and Workplace Surveillance*, presentation to Department of Labor & federal colleagues, CEO Seminar Series, November 2, 2023.
- *Hot Topics in Labor Law*, Arbitrator & Advocate Symposium, Columbus OH, October 26-27, 2023.
- *Glacier Northwest: A "Concrete" Discussion of the Impact*, LERA-Northeast Ohio (Cleveland), September 27, 2023.
- *Using ChatGPT to Help Draft labor/Employment Documents*, Modern Lawyer's Conference on Law & Technology of Tomorrow, Warsaw, September 22, 2023.
- *Resolving Workplace Disputes in the U.S.: The Good, the Bad, and the Ugly*, Chinese University of Political Science and Law, September 21, 2023.
- *U.S. Exceptionalism and Worker Rights*, Chinese University of Political Science and Law, September 6, 2023.
- *Artificial Intelligence in the Public Sector Workplace*, OSBA Public Sector Labor Law Conference, Columbus, Ohio, June 23, 2023.
- *Preparing for Hearings; Burdens of Proof and Exhibits*, 2023 OCSEA Steward Conference, Columbus, Ohio, June 3, 2023.
- *Reforming the Federal Arbitration Act*, American Bar Association ADR Conference, Las Vegas, May 11, 2023.
- *Employment Law Implications of Working from Home in the U.S.*, Legal Regulation of Working from Home, China University of Political Science and Law and Friedrich Ebert Foundation, Beijing, China (online), November 26-27, 2022.

- *The Future of Online Commercial and Labor Arbitration Hearings*, Law & Technology of Tomorrow, conference, Warsaw Poland, Nov. 19, 2022.
- *Recent Labor Arbitration Awards Involving COVID Issues*, 17<sup>th</sup> Annual Colloquium on Scholarship in Employment and Labor Law, Vanderbilt Law School, October 21, 2022.
- *Recent Labor Arbitration Awards Involving COVID Issues*, presentation to AALS ADR Works-in-Progress Conference, University of Oregon Law School, October 7, 2022.
- *Public Sector Labor Law Update*, Sixth Annual Public Sector Labor Law Seminar, Ohio State Bar Association, June 24, 2022.
- *Recent Labor Arbitration Awards Involving COVID Issues*, presentation to Labor and Employment Relations Association Houston Chapter, May 26, 2022.
- *COVID, COVID, COVID: A Multitude of Workplace Issues*, presentation at meeting of National Academy of Arbitrators, Toronto, May 12, 2022.
- *Trade & Labour Arbitration*, panelist at meeting of National Academy of Arbitrators, Toronto, May 11, 2022.
- *Vaccine Mandate Issues in Labor Arbitration Awards*, presentation to Annual Conference of the National Center for the Study of Collective Bargaining in Higher Education and the Professions (virtual), April 13, 2022.
- *Artificial Intelligence, Video Games, and Job Interviews*, presentation at Osgoode Hall Law School, York University, January 2022 (virtual).
- *COVID-Related Labor and Employment Issues*, Northern Kentucky University ADR Center, November 2021 (virtual).
- *COVID-Related Labour Issues Arising Under Collective Labour Agreements in the United States*, presentation at Alte University, Tbilisi, Republic of Georgia, November 2021.
- *COVID-Related Labor Arbitration Awards in the U.S. and Canada*, 15th Annual Colloquium on Scholarship in Employment & Labor Law (virtual), Vanderbilt Law School, October 2021.
- *Labor Relations and Dispute Resolution in a Time of Social Upheaval*, National Academy of Arbitrators Annual Conference, Moderator, October 2021.
- *Tired of the Pandemic Yet? Practical and Ethical Issues in Conducting Arbitrations Now*, National Academy of Arbitrators Annual Conference, Moderator, October 2021.
- *Hot Topics in Labor Law*, 48th Annual Arbitrator & Advocate Symposium – Columbus Ohio, September 2021.
- *Labour Adjudication, Arbitration & Mediation / Workplace Dispute Resolution*, International Labour and Employee Relations Association, Lund, Sweden (virtual), June 2021.
- *Public Sector Labor Law Update*, Ohio State Bar Association Fifth Annual Public Sector Labor Law Conference, June 2021.
- *Trumpian Populism and Worker Rights*, Labour Law Research Network conference, Warsaw, Poland (virtual), June 2021.
- *Emerging Workplace Disputes from COVID 19: Looking Into the Future*, National Academy of Arbitrators Employment Arbitration Committee Program, co-panelist, May 2021.
- *COVID-Related Arbitration Awards*, International Labor & Employment Relations Association study group presentation, Lund, Sweden (virtual), May 2021.
- *Experiential Learning in Full-Course Simulations: Labor Law, Inc.*, faculty workshop at Peking School of Transnational Law, Shenzhen, China, April 2021.
- *K-12 Nontraditional Bargaining in a Time of Covid: Building Solidarity Between Movements through Shared Grievances*, Seattle Journal of Social Justice symposium on Workers' Rights in the Wake of a Global Pandemic, March 2021.



- *Covid-Related Arbitration Awards*, Arbitration Law Review symposium on Arbitration in the Age of Covid-19, February 2021.
- *Returning to Class: Labor/Employment Issues in Education During a Pandemic*, ABA International Labor/Employment Law webinar, Sept. 2020.
- *Labor Rights Under the USMC (the New NAFTA)*, LERA/ISLSSL webinar, Sept. 2020 (moderator).
- *Checklist: How Small Businesses Can Respond to COVID*, Northern Kentucky University webinar, Sept. 2020.
- *ADR in a Pandemic*, Allegheny County [Pittsburgh] Bar Association ADR Section, Zoom presentation May 2020.
- *Artificial Intelligence in the Workplace*, Southwest Regional meeting of the National Academy of Arbitrators, Dallas Texas, Feb. 2020.
- *What Makes a "Reasoned" Arbitration Award?*, Penn State Law School, Feb. 2020.
- *Artificial Intelligence in the Workplace*, presentation to faculty and students at Penn State University School of Labor and Employment Relations, Feb. 2020.
- *Same but Different – Similarities and Differences between US and German Anti-Discrimination Laws*, co-presentation with Dr. Daniel Hund to Rechtsanwalt, Munich (Dec. 2019).
- *Artificial Intelligence in the Workplace*, Capital University Labor & Employment Law CLE, Columbus OH, November 2019.
- *Artificial Intelligence in the Workplace*, Ohio State Bar Assoc. 56th Annual Midwest Labor & Employment Law Seminar, Columbus OH, Oct. 2019.
- *Labor Law & Dispute Resolution in Southeast Asia*, co-presentation with Richard Fincher, 14th Annual Colloquium on Scholarship in Employment & Labor Law, UNLV Law School, October 2019.
- *Artificial Intelligence in the Workplace*, faculty scholarship workshop, University of Akron Law School, October 2019.
- *Artificial Intelligence and Labor-Management Relations*, Labor and Employment Relations Association of Northeastern Ohio meeting, Cleveland OH, May 2019.
- Moderator, *The Impact of AI, Digitization and Robotics in the International Workplace*, ABA Midyear Meeting of the International Labor and Employment Law Committee, Buenos Aires, May 2019.
- *Artificial Intelligence in the Workplace and Using Small-Scale Simulations in ADR and Labor/Employment Courses*, 13th Annual Colloquium on Scholarship in Employment & Labor Law, University of South Carolina School of Law, Sept. 27-29, 2018.
- *Artificial Intelligence in the Law School*, presentation at George Mason University conference on Taking Legal Education Online (June 8-10, 2018).
- Moderator, *Artificial Intelligence in the Workplace*, ABA Midyear Meeting of the International Labor and Employment Law Committee, Milan, May 2018.
- Moderator, Peer Reviewer, and Discussant, *Minimum Wages in Viet Nam: Facts, Debates, Global Experiences, and Recommendations*, Ton Duc Thang University (Đại học Tôn Đức Thắng), Viet Nam, January 8-9, 2018.
- Multiple seminars, lectures, and workshops, Ha Noi Law University (Đại học Luật Hà Nội), Viet Nam, January 2-15, 2018.
- *Principles of International Labour Law*, Paññāsāstra University and Royal University of Law and Economics, Cambodia, December 2017, and Ha Noi Law University, January 2018.
- *Labor Arbitration in the United States*, Yangon University, Yangon, Myanmar, December 2017.
- *Unification of Labour Law and the Rise of the On-Demand Economy*, Tbilisi State University, Tbilisi, Georgia, October 10, 2017; *Legal Pedagogy Workshop*, International Black Sea University, Tbilisi, Georgia, October 12, 2017.

- *Labour Law in the Gig Economy: An International and Comparative Approach*, Asian Law Institute Conference (panel organizer, moderator, and speaker), Manila, The Philippines, May 19, 2017.
- Multiple seminars, workshops, and lectures, Ton Duc Thang University, Ho Chi Minh City, January 9-21, 2017.
- *Resurrecting Labor Law*, Labor Law Group meeting, December 2016.
- *Resurrecting Labor Law*, faculty workshop at University of San Francisco Law School, December 2016.
- Multiple seminars, workshops, and lectures, Northern University of Bangladesh, Dhaka, May 21-25, 2016.
- *Laws on the Books v. Laws on the Ground: Minimum Employment Standards and Concerted Activity in China and the Region*, ABA Midyear Meeting of the International Labor and Employment Law Committee, Hong Kong, May 3, 2016.
- *Social Media and Discrimination Claims*, Arbitrator & Advocate Symposium, Columbus Ohio, April 29, 2016.
- *Specific Challenges for Law School Leaders and the Formation of a Networked Improvement Community*, panelist, International Association of Law Schools Americas Law Deans' Forum, Ponce, Puerto Rico, March 11, 2016.
- *Managing the Right-Sized Law School*, panelist, AALS Annual Conference, New York, January 6, 2016.