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A series of expert committee reports and legislative proposals suggest an emerging consensus in the medical research and public policy communities that compensating donors of tissues for stem cell and other biomedical research should be prohibited. This Article challenges this consensus by outlining, analyzing, and ultimately rejecting the leading arguments in favor of "no compensation" rules: that compensation is coercive, that it inappropriately commodifies the human body, that it will reduce the opportunity for altruistic donations, and that it will increase the cost of important medical research. The Article then evaluates second-best alternatives to allowing cash compensation for tissues and concludes by comparing the issues raised by compensation for research tissues with those raised by compensation for transplant organs.

ARBITRATION AND THE INDIVIDUATION  
CRITIQUE

*W. Mark C. Weidemaier* 69

Skeptics and champions of arbitration for consumer and employment disputes do not agree about much, but each group views arbitration as an individuated dispute resolution process. According to many skeptics, arbitration prevents consumer and employee claimants from aggregating their claims, and thus forces these claimants into individualized proceedings where they are unable to counter the advantages presumably enjoyed by more powerful, repeat-player businesses. This Article calls this the “individuation critique.”

This Article argues that the individuation critique may overestimate the extent to which arbitration agreements and arbitration procedures currently individuate the disputing process. Moreover, arbitration may have significant potential to facilitate formal and informal aggregation, especially in consumer disputes. The Article concludes by suggesting some reforms of arbitration provider policies that might encourage specialized, repeat-player lawyers to accept, even seek out, arbitration cases and to make meaningful investments in these disputes.

NOTES

RACIAL PROFILING IN IMMIGRATION ENFORCEMENT:  
STATE AND LOCAL AGREEMENTS TO ENFORCE  
FEDERAL IMMIGRATION LAW

*Carrie L. Arnold* 113

As of February 2007, seven jurisdictions had entered into special Memoranda of Agreement (“MOAs”) with the federal government, which allow their local police officers to enforce immigration law. This Note analyzes the use of race in immigration enforcement, examines the MOA program, and explores the likelihood that racial profiling will occur under the program.

MEDICAL DECISIONS AND CHILDREN: HOW MUCH  
VOICE SHOULD CHILDREN HAVE IN THEIR  
MEDICAL CARE?

*Anthony W. Austin* 143

Courts frequently dismiss the role of children in making their own medical decisions, on the legal presumption that children are less competent than adults. However, children are often capable of making adult-like decisions long before they turn eighteen. This Note addresses that discrepancy and examines the extent to which the judicial system should respect a child’s views on his or her medical treatment.

## ARIZONA CASE NOTES

### *ESPINOZA V. SCHULENBURG*: ARIZONA ADOPTS THE RESCUE DOCTRINE AND FIREFIGHTER'S RULE

*Kiel Berry* 171

In its first case considering the issue, the Arizona Supreme Court followed the Restatement (Third) of Torts Section 32 and adopted the rescue doctrine, which permits an injured rescuer to recover from the person whose tortious conduct necessitated the rescue. The court also adopted a narrow version of the firefighter's rule, a limitation on the rescue doctrine, and concluded that firefighters who arrive at a rescue scene as a result of their on-duty obligations as firefighters may not recover in tort under the rescue doctrine.

### *FORTY-SEVENTH LEGISLATURE OF THE STATE OF ARIZONA V. NAPOLITANO*: APPROPRIATIONS OF AUTHORITY

*Susan E. Schwem* 179

The Arizona Supreme Court applied its previous case law concerning the meaning of an "appropriation" to find the Governor's line-item veto outside the bounds of her authority. In reaching its decision, the court discussed limitations on the ability of the judiciary to decide disputes between the legislative and executive branches.

### *STATE V. GOMEZ*: DEFENDANT WITH DISMISSED INDICTMENT STILL ELIGIBLE FOR PROBATION

*Sesaly Stamps* 185

A criminal defendant remains eligible for mandatory probation in the case of a first- or second-time drug offense, although she was previously the subject of a dismissed indictment. Over the dissent of Justices Berch and MacGregor, the Arizona Supreme Court construed the language of Arizona Revised Statute Section 13-901.01 to allow defendants with dismissed indictments, like those with reversed convictions, to escape incarceration for minor drug crimes.

### *POWELL V. WASHBURN*: TO THE RESTATEMENT (THIRD) OF PROPERTY: SERVITUDES—AND BEYOND

*Joshua Wood* 193

The Arizona Supreme Court, following the Restatement (Third) of Property: Servitudes Section 4.1, adopted a liberal method for interpreting restrictive covenants that focuses on the intent of the parties to the covenant. The court's decision applying this principle prevented the use of recreational vehicles as single-family residences in a "fly-in community" in La Paz County.