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Articles

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AMERICAN SHOPPING MALL*Mark C. Alexander* 1

This Article examines speech rights in the modern American shopping mall. The Author offers a new perspective on the First Amendment, suggesting that it promotes both effective public debate and individual expression. Under the Author's theory, modern shopping malls must be open, to ensure exposure to and participation in the robust public debate that defines our democracy. Moreover, the Article urges the United States Supreme Court to reexamine prior case law, considering today's facts. Finally, the Author suggests a need for states to protect speech rights.

FROM *YODER* TO *YODA*: MODELS OF
TRADITIONAL, MODERN, AND
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CONSTITUTIONAL LAW*Rebecca Redwood French* 49

The Supreme Court and its commentators have struggled unsuccessfully for over a century to find an adequate characterization of the term "religion" in the First Amendment. This Article suggests a new approach to First Amendment religion scholarship. Relying on an analysis of the actual language used by the Supreme Court to characterize religion, this Article constructs three models of religion: a Traditional, integrated worldview religion, a Modern secular religion, and a New Age Postmodern religion. These models, the Author argues, are central to the way the Court analyzes free exercise and establishment clause cases, and this methodology represents a new way of thinking about the law and the behavior of the Court.

GANGING UP ON GIRLS: YOUNG WOMEN
AND THEIR EMERGING VIOLENCE*Cheryl Hanna*

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This Article explores female gang violence. It argues that girls have a biological capacity for aggression. As social conditions worsen and commercial feminism sexualizes female violence, more girls will turn to violent gang activity as they compete with each other for status, resources, and male attention. The criminal justice system should not differentiate between male and female violence, although preventative programs ought to be gender specific. The Article concludes that women academics both compete and cooperate in ways similar to girl gangs. This Article is written with references to popular culture in an attempt to break down the barriers that separate those in the academy from those about whom we write.

THROUGH THE PAST DARKLY: A SURVEY OF
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IMPACT EVIDENCE IN CAPITAL TRIALS*Wayne A. Logan*

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In 1991, the Supreme Court expressly held that "victim impact" evidence is permissible in capital trials. As this Article relates, the Court's decision in *Payne v. Tennessee* has resulted in the widespread use of victim impact evidence, yet death penalty jurisdictions have shown a marked reluctance to impose substantive and procedural limits on the highly emotional new form of evidence. This Article surveys how impact evidence is being employed in capital trials nationwide, and examines how trial and appellate courts can better ensure that impact evidence does not improperly influence capital juries in their death decisions.

Notes

A CRIMINAL'S JUSTICE OR A CHILD'S
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JURISDICTION AND THE FLAWS IN
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In response to the perceived juvenile crime epidemic, the Arizona Legislature jumped on the national bandwagon by imposing stricter laws to combat juvenile crime and severely punish serious and violent young offenders. The strategy of choice is to exclude from the juvenile court system those young offenders charged with certain legislatively defined criteria; this process is called legislative waiver. This Note explores the inherent flaws with the Arizona legislative waiver statute, commonly referred to as Proposition 102, and suggests the need for an alternative waiver approach that incorporates a discretionary and individualized assessment of juveniles.

HAS THE SUPREME COURT ARMED
PROPERTY OWNERS IN THEIR
FIGHT AGAINST
ENVIRONMENTALISTS? *BENNETT V.*
SPEAR AND ITS EFFECT ON
ENVIRONMENTAL LITIGATION *Todd William Roles* 227

After a long history of environmentalists using the Endangered Species Act ("ESA") to sue for underenforcement of environmental regulations, the Supreme Court has recently ruled that property owners also have standing to sue for overenforcement of environmental regulations. The Court held that the "zone of interests" test is not applicable to the ESA's citizen suit provision. Thus, plaintiffs with recreational or economic interests have standing to bring suit under the ESA. The Note then discusses the future implications of this unanimous Supreme Court opinion.

