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Articles

- JOE SIX-PACK, *UNITED STATES V. O'HAGAN*,
AND PRIVATE SECURITIES LITIGATION
REFORM: A LINE MUST BE DRAWN.....*Michael H. Dessent* 1137

Speculators generate twelve percent of daily stock trades on NASDAQ. These self-labeled legalized gamblers join record numbers of middle Americans (Joe Six-Packs) owning mutual funds, yet they believe that they are "not in the market" and are unaware of how those funds invest. Should they be allowed to sue people who trade based on inside information—however acquired?

The author traces the history of Rule 10b-5, recent securities reforms, and major decisions, including *United States v. O'Hagan*, concluding that allowing such suits would be a disaster, giving a forum to hypothetical transactions and extraordinary speculative damages.

- CHALLENGING THE RACISM IN
ENVIRONMENTAL RACISM:
REDEFINING THE CONCEPT OF INTENT*Jill E. Evans* 1219

The social movement that began as a challenge to environmental racism in the siting of hazardous waste facilities has evolved into a struggle against disparities in environmental risks across all populations. The convergence of these movements dilutes the ability of minority communities to focus attention on, and seek redress for, environmental racism. The Equal Protection Clause remains a viable avenue for remedying environmental racism and should not be ignored. This Article contends that the intent standard mandated by the United States Supreme Court in *Washington v. Davis* should be expanded to address racially discriminatory siting of hazardous waste facilities.

TAKING THE COP OUT OF COPPING A PLEA: ERADICATING POLICE PROSECUTION OF CRIMINAL CASES	<i>Andrew Horwitz</i>	1305
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This Article examines the fact that several jurisdictions in the United States allow police officers who are not licensed to practice law to prosecute criminal cases. Noting that a prosecutor has virtually unreviewable discretion, the Article catalogues the problems raised when the prosecutor has little or no formal legal education, is not beholden to the rules of legal ethics, and is not the duly elected public prosecutor. The Article maintains that the prosecutor's unauthorized practice of law renders any resulting conviction void and that the prosecution of a criminal case by a police officer violates the defendant's right to due process.

THE PRE-EMPTION PRESUMPTION THAT NEVER WAS: PRE-EMPTION DOCTRINE SWALLOWS THE RULE	<i>Susan Raeker-Jordan</i>	1379
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This Article exposes a major weakness in pre-emption law: the evisceration of the historical presumption against pre-emption of traditional state law domains by the United States Supreme Court. Even though the presumption was generated by federalism principles that recognize the importance of state law in some significant instances, and even though the Supreme Court purports to recognize that importance, the presumption has been disregarded, making state tort law extremely vulnerable to override. This Article argues for a bright-line approach that would protect state tort claims from easy pre-emption and that would restore the federal-state balance.

Notes

PHYSICIAN-ASSISTED SUICIDE: DOES "THE END" JUSTIFY THE MEANS?	<i>Paul Moore</i>	1471
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This Note explores *Washington v. Glucksberg* and *Vacco v. Quill*, two recent United States Supreme Court decisions addressing the physician-assisted suicide. This Note argues against the legalization of physician-assisted suicide, finding that any advantages gained by legalizing it are outweighed by the potential for abuse of the system and by the diversion of attention and funds away from improving treatment of depression in the terminally ill.

ADOPTION BY HOMOSEXUALS: A LOOK

AT DIFFERING STATE COURT

OPINIONS *Karla J. Starr* 1497

This Note explores the recent decisions and attitudes held by state courts regarding the eligibility of gays and lesbians to adopt children. Although adoptions by gays and lesbians are a recent phenomenon, occurring in the past two decades, many state adoption laws are evolving to include these non-traditional family units. This Note focuses on the courts that have considered adoption by gays and lesbians to be in the best interest of a child.

THE ABA'S RESOLUTION CALLING FOR A

MORATORIUM ON EXECUTIONS:

WHAT JURISDICTIONS CAN DO TO

ENSURE THAT THE DEATH PENALTY

IS IMPOSED RESPONSIBLY *Kara Thompson* 1515

In 1997, the American Bar Association issued a resolution calling for a moratorium on executions in the United States. The resolution outlined four goals that capital jurisdictions should achieve before resuming the imposition of the death penalty: (1) preserve due process; (2) ensure competent legal counsel for capital defendants; (3) eliminate racial discrimination in capital sentencing; and (4) prevent the executions of juvenile offenders and the mentally retarded. This Note addresses these four goals and analyzes the potential methods of reforming the capital punishment regime.

