

# ARIZONA LAW REVIEW

VOLUME 24

1982

NUMBER 4

## CONTENTS

### *Articles*

- |   |                                 |
|---|---------------------------------|
|   | <i>Page</i>                     |
| WILLFULNESS: A CRUCIAL FACTOR IN<br>CHOOSING REMEDIES FOR BREACH OF<br>CONTRACT ..... | <i>Patricia H. Marshall</i> 733 |

This Article shows that the willfulness of the defendant's breach, economic waste, disproportionality of the cost of repair to loss in market value caused by the breach, and aesthetic preference of the owner have each been deemed by some court to be the single crucial factor in choosing between cost of repair and diminished value damages. A new approach is suggested in which willfulness would be the only crucial factor, with its presence mandating the higher measure of damages in order to deter breach. If willfulness is not found, a court should then engage in open-ended balancing of all factors relevant to the choice of the measure of damages.

- |   |  |
|---|--|
| PROPERTY RIGHTS IN ONE'S JOB: THE<br>CASE FOR LIMITING EMPLOYMENT-AT-<br>WILL ..... | <i>Donald H.J. Hermann &amp;<br/>Yvonne S. Sor</i> 763 |
|---|--|

The employment-at-will doctrine, which permits employers to discharge without cause, fails to recognize legitimate employee claims to a right to their job. To properly balance the interests of employer and employee, this Article proposes legislation which provides procedures for protecting employees' interests by requiring good cause for dismissal.

- |  |  |
|--|--|
| PREDATORS' RIGHTS AND AMERICAN<br>WILDLIFE LAW ..... | <i>George Cameron Coggins &amp;<br/>Parthenia Blessing Evans</i> 821 |
|--|--|

The authors discuss the history, laws and case law concerning the relationships between humans and predators and suggest a rational reevaluation of predator policy.

### *Notes*

- |  |                             |
|--|-----------------------------|
| UNITED STATES MINERALS POLICY—A PROPOSAL TO<br>REVITALIZE THE EXPLORATION AND DEVELOPMENT<br>OF DOMESTIC MINERAL RESOURCES ..... | <i>James S. Burling</i> 881 |
|--|-----------------------------|

The author examines the state of the United States minerals industry. Legislation to correct governmental policies and stimulate domestic minerals exploration is proposed.

CRUMMEY TRUSTS FOR MINORS.....	<i>Gail L. Daniel</i>	905
--------------------------------	-----------------------	-----

The author discusses the income, estate, and gift tax consequences of the "Crummey" trust and the utility of establishing such trusts for minors.

LEGAL ASPECTS OF THE UPCOMING REALLOCATION OF HOOVER DAM ENERGY: THE CONFLICT BETWEEN ARIZONA, CALIFORNIA, AND NEVADA.....	<i>Keith W. Kroese</i>	927
--	------------------------	-----

The author discusses the legal positions taken by the three states with respect to the allocation of Hoover Dam Energy, and argues that Arizona and Nevada should receive a greater share of the power.

THE PROBLEM OF THE PROFESSIONAL SPOUSE: SHOULD AN EDUCATIONAL DEGREE EARNED DURING MARRIAGE CONSTITUTE PROPERTY IN ARIZONA? .....	<i>Wilbur M. Roadhouse</i>	963
--	----------------------------	-----

The author suggests that Arizona courts have a unique opportunity to conceptualize community expenditures, which enable one spouse to earn an educational degree, as community improvements to separate property entitling the community to claim for reimbursement.

*Book Review*

FELIX S. COHEN'S HANDBOOK OF FEDERAL INDIAN LAW, SECOND EDITION.....	<i>Janice A. Wezelman</i>	987
---	---------------------------	-----

APPELLATE DECISIONS 1981-82

I. CIVIL PROCEDURE		
APPLICATION OF THE "LAW OF THE CASE" ON REMAND GIVEN INTERVENING STATUTORY CHANGE		
<i>Jordan v. Jordan</i> .....		993
II. CONTRACTS		
CONTRACTUAL NONASSIGNABILITY PROVISIONS: THEIR APPLICABILITY TO CHANGES IN THE LEGAL FORM OF A BUSINESS		
<i>Sun World Corp. v. Pennysaver, Inc.</i> .....		1004
III. CREDITORS REMEDIES		
A. <i>MATCHA V. WINN</i> : A CAVEAT TO DRAFTERS OF HOME- STEAD DECLARATIONS		
<i>Matcha v. Winn</i> .....		1013
B. PROTECTING JUDGMENT LIEN CREDITORS FROM PRIOR UNRECORDED CONVEYANCES BY THE DEBTOR: <i>ROWE V.</i> <i>SCHULTZ</i>		
<i>Rowe v. Schultz</i> .....		1024
IV. EMPLOYMENT DISCRIMINATION		
<i>NORRIS V. ARIZONA GOVERNING COMMITTEE</i> : TITLE VII'S APPLICABILITY TO ARIZONA'S DEFERRED COMPENSATION PLAN		
<i>Norris v. Arizona Governing Committee</i> .....		1032

V.	INSURANCE LAW	
	INSANITY: HOW DOES IT AFFECT LIABILITY INSURANCE	
	EXCLUSIONS FOR INTENTIONAL TORTS? ARIZONA ADOPTS	
	THE <i>RUYOLO</i> TEST	
	<i>Globe American Casualty Co. v. Lyons</i> .....	1046
VI.	WATER LAW	
	DOES ARIZONA'S 1980 GROUNDWATER MANAGEMENT ACT VIO-	
	LATE THE COMMERCE CLAUSE?	
	<i>Sporhase v. Nebraska ex rel. Douglas</i> .....	1060
	INDEX: VOLUME 24 .....	1073