Overview of U.S. Law
Overview of U.S. Law

SECOND EDITION

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Dedicated to —

Ashley Swanegan
Cheryl L. Segal

The authors continue to recognize the initial dedication on this book to the memory of Adam F. Cooper, the son of John F. Cooper. Adam was born in 1988, and died tragically in 2008. He was bright, funny, creative, artistic, generous, complicated, frustrating, angry, troubled, but always loving. He loved, and was loved, without condition.
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Preface

This book is an effort to reach several audiences in providing an overview of the United States (US) legal system. It offers seventeen different subjects that include the main areas covered in most first year law school programs, as well as some hot topics that may be of interest to readers.

This book is aimed at foreign attorneys who are looking for an initial understanding of the structure and process of US law. In this regard, this book offers some comparisons with civil code systems. It is, however, merely an overview of the law and does not dissect the many nuances essential to a true understanding of US law. In the past few decades there has been a proliferation of LL.M programs at American law schools introducing foreign lawyers to the fundamentals of this legal system. The existence, and growth, of these programs, evidences the value that foreign lawyers continue to place on an understanding of US law.

This book also provides those about to commence a law school program with an overview of the subjects that they are likely to study. In this regard, students who prefer a “big picture” approach to the structure of the US system can learn some of the components in advance of their first semester of law school. Further academic success professionals may find the overview approach helpful to students who are looking for a course map.

The book may also offer a review of courses studied for those who are preparing for a bar exam. Although this book is not an alternative to a bar examination course or study plan, it may be used to reinforce principles learned earlier in a law school career.

From the first edition the authors thank Darby Dickerson and Lindsay A. Warner. They also thank John F. Cooper, one of the initial editors of this book.

In this second edition they thank Interim Dean Kristen Adams, and research assistants Ashaley Boatwright, Taofikat Ninalowo, and Viviana Vasiu. Finally, they thank each of the individual authors, who so generously committed their skill and knowledge to this book.

JR Swanegan
Ellen S. Podgor
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About the Authors

Paul Boudreaux

Paul Boudreaux is a professor at Stetson University College of Law. He teaches property law and related topics and has taught in numerous summer programs in Asia and Europe. He was educated at the University of Virginia.

Ronald W. Eades

Ronald W. Eades received his initial education at Rhodes College in Memphis, Tennessee where he was awarded a B.A. He then received his J.D. degree from the University of Memphis, School of Law. Professor Eades also received an LL.M. from the Harvard Law School.

The first law related position held by Professor Eades was a staff attorney for the Tennessee Valley Authority. At this agency, Professor Eades did general civil litigation. After the period of time with the Tennessee Valley Authority, Professor Eades joined the faculty of the Louis D. Brandeis School of Law at the University of Louisville in Louisville, Kentucky. While teaching at the University of Louisville, Professor Eades taught primarily in the Torts and civil litigation areas. In addition, he has written extensively in those same areas. His books include a series of Jury Instructions texts published by Lexis/Nexis and a series of Kentucky Law books published by West Publishing Company. He has also written student textbooks for Carolina Academic Press. Professor Eades to work with the Center for Computer Assisted Legal Instruction (CALI). That work included writing computer lessons in tort law, and serving on the editorial board now.

During his time in teaching, Professor Eades has had the opportunity to be a visiting teaching and scholar at several European Universities. He has been a teacher and scholar in Leeds, England, Mainz, Germany, and Turku, Finland.

Professor Eades has received numerous awards for both his teaching and research. He has received the Law School Teaching Award on three occasions and been named a Distinguished Teaching Professor by the University. In addition, for his scholarship, Professor Eades has been designated a Distinguished University Scholar by the University of Louisville. Professor Eades is now a Professor of Law Emeritus.

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Professor Michael S. Finch is a professor of law at Stetson University College of Law having joined the law faculty in 1982, after practicing law in New England. He

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Steve Friedland is a Professor of Law, Senior Scholar, and the Associate Dean for Innovations in Engaged Learning in the Law at the Elon University School of Law in North Carolina. He has taught Evidence law for 25 years at various law schools and served as a federal prosecutor in Washington, D.C. He has written several law school text books and law review articles on Evidence. Friedland holds a J.D. from Harvard Law School and L.LM and J.S.D. degrees from Columbia University.

**Llewellyn Joseph Gibbons**

Professor Llewellyn Joseph Gibbons is a Distinguished University Professor of Law at University of Toledo College of Law. He has been a faculty member at the University of Toledo since 1998. He is a graduate of The State University of New York at New Paltz and Northeastern University School of Law. He began his teaching career as an Honorable Abraham L. Freedman Teaching Fellow at Temple University School of Law, where he also received an LL.M. in Legal Education. In 2017, Zhongnan University of Economics and Law (ZUEL) (Wuhan, China) named Professor Gibbons the Wenlan Scholar Chair of Law.


Professor Gibbons’ areas of research include both international and domestic intellectual property law, intellectual property licensing and management, technology transfer, ecommerce, and cyber-law.

Professor Gibbons would like to thank Professor Bartow for being Professor Bartow, and Professors Podgor and Swanegan for the opportunity to contribute to this project.

**Darryll K. Jones**

Professor Darryll K. Jones joined Florida A&M University College of Law in 2009 as Associate Dean for Research and Faculty Development. He is a tenured full professor teaching Federal Income Tax, Partnership Tax, and the Taxation of Exempt Organizations. From July, 2012, to July 2015 he served as Associate Dean for Academic Affairs and then from July 2015 to January 2016 he served as Interim Dean at Florida A&M University College of Law. Prior to his time at FAMU Law, he taught at Stetson University College of Law and at the University of Pittsburgh. He received his LLM (Tax) and JD degrees from the University of Florida. Professor Jones is the lead co-
author of The Taxation of Charities and Other Exempt Organizations, LexisNexis, 3rd ed. 2016). His scholarship on federal taxation has appeared in the Florida Tax Review, the Virginia Tax Review, Brigham Young University Law Review, the University of Pittsburgh Law Review, Northwestern Journal of International Law and Business and several other publications. Professor Jones has been consulted by members of Congress, including the Senate Finance Committee, the House Ways and Means Committee, staff to the Joint Committee on Taxation, and the Internal Revenue Service on issues relating to individual income tax, partnership tax, and the tax laws of exempt organizations. Prior to becoming a full time tax law scholar, Professor Jones served as General Counsel to Columbia College Chicago and Associate General Counsel at the University of Florida. He also served for five years in the United States Army Judge Advocate General’s Corp.

Patrick Longan

Patrick Longan teaches at Mercer University School of Law, where he holds the William Augustus Bootle Chair in Ethics and Professionalism. He received an A.B., Summa Cum Laude 1979 Washington University; a J.D. 1983 University of Chicago; an M.A. Economics 1980 University of Sussex. He has been a member of the Mercer Law Faculty since 2000. He teaches in the areas of Legal Profession; Judicial Field Placement; Law of Lawyering; Civil Procedure; and, Introduction to Counseling. He has published extensively in the areas of ethics and professionalism. In 2005 he was selected for a National Award for Innovation and Excellence in Teaching Professionalism, by the American Bar Association Standing Committee on Professionalism, the Conference of Chief Justices, and the Burge Endowment for Legal Ethics. In 2014, Mercer received the E. Smythe Gambrell Professionalism Award for one of Professor Longan’s professionalism projects.

Jeffrey J. Minneti

Jeff Minneti is an Associate Professor of Law and Director of the Academic Resource Center (ARC) at Seattle University School of Law. The ARC is a group of dedicated academic success professionals whose goal is to empower all students to accomplish their personal best in law school and pass the bar exam on their first attempt. The ARC Team provides academic and executive function skill instruction to students and partners with students to help them execute academic action plans. In addition, Professor Minneti teaches courses in Criminal Law and Trusts and Estates. He enriches each course with academic and executive function skill instruction.

Professor Minneti’s scholarship focuses on two interests: (1) the intersection of behavioral economics and environmental regulation and (2) the study of how students’ preferences, choices, and behaviors affect their academic performance. A common theme across his scholarship is the study of decision making and decision architecture. A recent paper found that students’ work drive is an effective predictor of their academic performance, which suggests that when students modify their preferences and choices around the work associated with law school, they will improve their academic
performance. In 2018, he published an article describing the theoretical framework for SU Law’s Access Admission Program, focusing on how the program is steeped in the neurobiology of learning and student motivation.

Prof. Minneti previously taught at Stetson University College of Law in St. Petersburg, Florida, where he directed the school’s academic success program and taught students courses in Trusts and Estates, Remedies, and Survey of Florida Law. Prior to his work at Stetson, Professor Minneti practiced with the Tampa law firm, Murray, Morin, and Herman; his practice focused on defending the interests of London market insurers in the aviation industry. Upon graduation from law school, Professor Minneti clerked for Thomas A. Woodall, Associate Justice of the Alabama Supreme Court. While in law school, Professor Minneti served as Editor-in-Chief of the American Journal of Trial Advocacy.

Rebecca C. Morgan

Rebecca C. Morgan is the Boston Asset Management Chair in Elder Law, the director of Stetson’s Master of Jurisprudence in Health Care Compliance, and the original director of Stetson’s on-line LL.M. in Elder Law. She is a successor co-author of Matthew Bender’s Tax, Estate, and Financial Planning for the Elderly and its companion forms book, a co-author of Representing the Elderly in Florida, co-author of Fundamentals of Special Needs Trusts and serves as a member of the elder law editorial board for Matthew Bender. She also co-authored Planning for Disability for BNA with Robert Fleming and a co-author of Ethics in an Elder Law Practice for the ABA. She and four of her colleagues have co-authored, Elder Law in Context. Professor Morgan is a past president of the National Academy of Elder Law Attorneys and has held leadership positions in a number of other organizations.

Joseph F. Morrissey

Professor Morrissey received his A.B. from Princeton University and his J.D. from Columbia University School of Law. He practiced corporate and securities law for Mayer, Brown & Platt and later Kirkland & Ellis. He also spent several years overseeing a Russian asset portfolio for an investment company in Switzerland. His practice led him to run offices in Tashkent, Uzbekistan; Geneva, Switzerland; and Moscow, Russia. In the summer of 2001, Professor Morrissey began his full-time academic career at Chicago-Kent College of Law. He joined Stetson University College of Law in the summer of 2004.

Professor Morrissey has taught and published numerous articles in the areas of business entities, contracts, constitutional law, and international private law. Professor Morrissey is the author of International Sales & Arbitration (Aspen Select, 2d. Ed, 2017), a casebook which combines a focus on international contract law with the mechanism of dispute resolution most often used in those contracts, arbitration. In addition, Professor Morrissey has published a capstone casebook in Elder Law, Elder Law in Context (Aspen 2017) (with Morgan, Bauer, Flowers, and Radwan); and is in the process of publishing another capstone casebook in Bankruptcy, Bankruptcy
Ellen S. Podgor

Ellen S. Podgor is the Gary R. Trombley Family White-Collar Crime Research Professor and Professor of Law at Stetson University College of Law, where she teaches courses in white collar crime, criminal procedure adjudication, white collar advocacy, and criminal law. She holds a B.S. degree from Syracuse University, J.D. from Indiana University School of Law at Indianapolis, M.B.A. from University of Chicago, and LL.M. from Temple University School of Law. She served as Stetson’s inaugural Associate Dean for Faculty Development and Electronic Education. She is the co-author of many books and articles including: *White Collar Crime In A Nutshell* 5th Ed. (West Academic 2015) (w/ Israel), *White Collar Crime: Law and Practice* 4th Ed. (West Academic 2015) (w/Israel, Borman, & Henning), *International Criminal Law: Cases and Materials* 4th Ed. (Carolina Academic Press 2016)(w/ Clark & Dervan), *Understanding International Criminal Law* 3rd Ed. (LexisNexis 2013)(w/ Clark), and *Criminal Law: Concepts and Practice* 4th Ed. (Carolina Academic Press 2018)(w/ Henning, Jones, and Garcia). Professor Podgor is a past chair of the Association of American Law Schools (AALS) Sections on Criminal Justice and Sexual Orientation and Gender Identity Issues. She also is a past president of the Southeastern Association of Law Schools (SEALS) and currently serves as a member of the Board of Directors of the International Society for the Reform of Criminal Law (ISRCL). She is a member of the American Law Institute (ALI) and an honorary member of the American Board of Criminal Lawyers (ABCL).

Ruthann Robson

Ruthann Robson is Professor of Law and University Distinguished Professor at the City University of New York (CUNY) School of Law. She is the author of two casebooks, *First Amendment: Cases, Controversies, and Contexts, and Liberty, Equality, and Due Process: Cases, Controversies, and Contexts, both from e-Langdell. Her other books include* Dressing Constitutionally: Hierarchy, Sexuality, and Democracy (2013); Sappho Goes to Law School (1998); and Lesbian (Out)Law: Survival Under The Rule Of Law (1992), as well as the editor of the three-volume set, *International Library of Essays in Sexuality and Law* (2011). She is one of two editors of the Constitutional Law Professors Blog which she founded in 2008, a frequent commentator on constitutional and sexuality issues, and one of the 26 professors selected for inclusion in What The Best Law Teachers Do (Harvard University Press, 2013).

Charles H. Rose III

Charles H. Rose, III holds an endowed professorship as the Professor of Excellence in Trial Advocacy at Stetson University College of Law. He serves as the Director of the Center for Excellence in Advocacy at Stetson University College of Law in Gulfport, Florida, leading a Nationally recognized trial advocacy program—one ranked first in
the nation twenty times by U.S. News & World Report for excellence in advocacy education. He received his B.A. from Indiana University at South Bend, his J.D. from Notre Dame Law School, and his L.L.M. from the Judge Advocate General's School, United States Army. Prior to joining Stetson's Faculty, Professor Rose served in the United States Army's Judge Advocate General's Corps, retiring from active duty in 2004.

Professor Rose is an expert on trial advocacy, evidence, skills teaching pedagogy, federal criminal constitutional law, national security, and military law. He is a prolific author and lecturer in these fields and has presented to audiences worldwide.


Albert (JR) Swanegan

JR Swanegan is the Assistant Dean of International and Graduate Programs at Stetson University College of Law and an adjunct professor of law. Swanegan earned his BA in political science and his JD from the University of Missouri-Columbia. Upon graduation, Swanegan served as the Judicial Law Clerk for the Honorable Charles Atwell in Jackson County Circuit Court, Kansas City, Missouri. He has served in numerous higher education administrative capacities, ranging from diversity programming and admissions, to international programming and educational program development. Swanegan was selected as an AIEA Presidential Fellow in for the 17/18 academic year and paired with his mentor, Donald Filer of Yale University. He teaches the Overview of US Law and US Legal Systems to International LLM and Master of Jurisprudence students.

Lou Virelli

Professor Virelli received his B.S.E. from Duke University and his M.S.E. and J.D. from the University of Pennsylvania. He practiced law as a trial attorney with the United States Department of Justice, where he represented the government in civil claims under the False Claims Act. Prior to joining the Justice Department, he was a law clerk to Judge Leonard I. Garth of the United States Court of Appeals for the Third Circuit and Judge Franklin S. Van Antwerpen of the United States District Court for the Eastern District of Pennsylvania. Professor Virelli joined Stetson University College of Law in the summer of 2007.

Professor Virelli has taught courses in Administrative Law, Civil Procedure, Constitutional Law, and Federal Courts. He has published numerous articles in the areas of administrative law and constitutional law. He is the author of a book on constitutional law and ethics at the Supreme Court titled Disqualifying the High Court: Supreme Court Recusal and the Constitution (Univ. Press of Kansas 2016), and a casebook on administrative law titled Administrative Law: Cases and Materials (7th ed. 2015).
Tanya Monique Washington

Tanya Washington is a Professor of Law at Georgia State University College of Law. She earned her J.D. from The University of Maryland School of Law and then clerked for Associate Judge Robert M. Bell on the Maryland Court of Appeals. After practicing as a toxic tort defense litigator in the Baltimore office of Piper & Marbury, she completed two fellowships and earned her LL.M. from Harvard Law School.

Professor Washington has taught Civil Procedure I and II, Family Law, Education Law and Race and Law at Georgia State for the past 15 years. She has also worked as an adjunct professor at Howard Law School and at the David A. Clarke Law School at the University of the District of Columbia. Her research and scholarship focus on issues related to educational equity, domestic violence, racial justice, inclusion and diversity, marriage equality, and children’s constitutional rights. Her articles and op-eds have been published in law journals and periodicals across the nation, and Supreme Court Justice Kennedy, cited her co-authored amicus brief in his majority opinion in the landmark marriage equality decision, Obergefell v. Hodges.

A belief that the true value of the law lies in its capacity to improve the human condition animates Professor Washington’s work, which includes three years on the Atlanta Human Relations Commission, volunteer service to Atlanta’s homeless population, work at area soup kitchens, several amicus briefs in Georgia appellate cases, and countless hours of pro-bono work.

Professor Washington’s teaching and scholarly contributions were recently recognized by the Gates City Bar, with the President’s Award for Excellence, and the Georgia State University, with the Alumni Distinguished Faculty Award for Teaching and Scholarship. She currently serves as the Director of the John Lewis Fellowship Program, a Humanity in Action program funded by a grant to the National Center for Civil and Human Rights from the Andrew W. Mellon Foundation. Her efforts to expand and deepen the pipeline of students entering law school earned her recognition in 2013 as one of 50 minority law professors under 50 making an impact in legal education.

Mark E. Wojcik

Mark E. Wojcik is a professor of law at The John Marshall Law School in Chicago, where he has taught courses in international law, international business transactions, international trade law, international criminal law, international human rights law, legal writing, and torts. He is a former Director of the Legal English Program at the International Law Institute in Washington D.C., and the author of Introduction to Legal English published by that Institute. He is an adjunct professor at the Facultad Libre de Derecho de Monterrey in Mexico, and a permanent guest professor at the University of Lucerne in Switzerland. He has also taught in China, Italy, and Lithuania and was among the first law professors to teach in Bhutan at the Jigme Singye Wangchuck School of Law. He previously worked as Court Counsel to the Supreme Court of the Republic of Palau (Western Micronesia), and clerked for the Supreme Court of Nebraska and the U.S. Court of International Trade. He has held leadership roles in many professional associations and academic societies, including the American
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Candace Zierdt

Professor Candace Zierdt joined the faculty of the Stetson University College in 2007. Prior to that, she had been on the faculty at the University of North Dakota School of Law since 1990. Professor Zierdt was the Alan Gray Professor of Law at the University of North Dakota and served as Interim Dean. In 1994, she received the Lydia and Arthur Saiki Prize for Excellence in Graduate/Professional Teaching from the University of North Dakota. She also received the Stetson University College of Law Teaching Award in 2009 and the Dickerson-Brown Award for Excellence in Faculty Scholarship in 2017. In addition to teaching in the areas of Contracts and the Uniform Commercial Code, Professor Zierdt has served as an academic specialist in Slovenia and Macedonia on the subjects of American Contract law, the Uniform Commercial Code, and the rule of law. In addition to lecturing and writing articles about Contracts and Commercial law, she has published books on Contracts, the U.N. Convention on Contracts for the International Sales of Goods, and Commercial Law. Professor Zierdt practiced law for eleven years in Kansas City, Missouri where she received the Missouri Association of Social Welfare Award for Outstanding Legal Services. She also was a law clerk to Judge Doris Smith of the Pennsylvania Commonwealth Court of Appeals.

Professor Zierdt has been a North Dakota Commissioner on the National Conference of Commissioners on Uniform State Laws (ULC) since 2001 and she has been a ULC Division Chair since 2017. She is a member of the ULC Committees on Liaison with American Indian Tribes and Nations, Tribal Probate Code, and Notarial Acts. She also chairs the committee on the Uniform Commercial Code for the Business Law Section of the ABA since fall 2018, is a member of the ABA Business Law Section Publications Board, and she is an elected member of the America Law Institute.