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Editorial Summaries

ARTICLES

THE *CELOTEX* TRILOGY REVISITED: HOW MISAPPLICATION OF THE FEDERAL SUMMARY JUDGMENT STANDARD IS UNDERMINING THE SEVENTH AMENDMENT RIGHT TO A JURY TRIAL

The Honorable David H. Simmons, Stephen J. Jacobs, Daniel J. O'Malley, and Richard H. Tami

The right to a jury trial has long been an essential part of our justice system. In this article, however, David Simmons analyzes statistics that show a marked decline in the actual number of federal civil trials, while a large increase continues in all other areas of litigation. The documented increase in summary judgment dispositions indicates the possibility that more cases are disposed of by the court before they reach trial. This article reviews and discusses the evolution of summary judgment up to the group of cases known as the *Celotex* trilogy, and the impact of these cases. Although the Supreme Court surely did not intend to erode the right to a jury trial, federal district courts and courts of appeals have struggled to follow the principles of the *Celotex* cases and have taken various positions on the issue. The Supreme Court is urged to take action to clarify the standard and eliminate inconsistencies between federal courts, providing clearer guidance than what courts attempt to apply from the *Celotex* trilogy.

INCREMENTALISM, IDEOLOGY AND SOCIAL CHOICE: SHOULD THE UNITED STATES RATIFY THE U.N. CONVENTION ON THE RIGHTS OF THE CHILD?—A PRACTICAL PERSPECTIVE

Cleveland Ferguson III

The U.N. Convention on the Rights of the Child applies recognized international human rights explicitly to children, enumerating and codifying nine universal rights based upon the unique needs of children as a class. U.S. advocacy groups have been critical of the Convention's language, and to date the U.S. remains a non-party.

The Convention is an effective guideline for examining federal public policy-making, and illustrates how the traditional theories of incrementalism and ideology fall short of adequately protecting chil-

dren's rights. The rational social choice of ratifying and enforcing the Convention would likely be an effective way to ensure a national standard that meets the full panoply of children's needs.

It is unlikely that the Convention will be ratified, but on a grassroots level, local leaders can advocate for independent Ombudsmen to provide a voice for children in the federal government and health and legal professionals can adopt the tenets of the Convention, utilizing them when formulating new public policy.

EQUAL PROTECTION – FLORIDA'S DISENFRANCHISEMENT LAW:
APPELLATE COURT AFFIRMS DECISION FINDING DISENFRANCHISEMENT
PROVISION DOES NOT VIOLATE CONSTITUTION. *Johnson v. Governor of
The State of Florida, Et Al.*, 405 F.3d 1214 (11th Cir. 2005)
Arthenia Joyner

Arthenia Joyner offers a critical examination and discussion of the *Johnson* cases and looks at how the voting rights of convicted felons in Florida are often not restored even after they have served their time. She analyzes how the courts applied Equal Protection analysis to the provision of Florida's Constitution controlling whether the right to vote is restored to felons and argues for Florida to renounce its disenfranchisement of felons once they have paid their debt to society.

ESSAYS

WHAT WOULD MAKE ATTICUS FINCH FLINCH?
Robert Westley

Using Atticus Finch as a guidepost, Harper Lee's protagonist from her famous novel *To Kill a Mockingbird*, Professor Westley explores the moral and ethical minefields facing the modern-day lawyer in what could conceivably be characterized as an ethically-challenged environment. Professor Westley addresses some of his concerns over recent developments that have arisen since the American Bar Association's Model Rules were promulgated, and suggests some of the current practices, such as lawyers knowingly engaging in "secret settlements," which could possibly put the general public at risk, would be abhorrent to both Atticus Finch and any other like-minded ethical lawyer.

REFLECTIONS ON *BUSH V. GORE*: THE ROLE OF THE UNITED STATES
SUPREME COURT
David Boies

The election that brought Florida's voting procedures to the forefront is revisited in this analysis by one of the key attorneys involved in the case. The Supreme Court case involving the Florida recount of votes is analyzed, reviewing the unique role of the Court and historic trends in the use of its power. David Boies includes insight and commentary, raising important questions about the highest court in our country.

THE PARANORMAL, DAUBERT, DICTIONARY COURT, AND A FUTURISTIC
COURTROOM DRAMA

Judge Joseph P. Baker

In this fascinating and sometimes offbeat article, Judge Baker takes us on an interesting journey from the spiritual and paranormal to the scientific in relation to two of the leading cases on the admissibility of scientific evidence and testimony, *Daubert v. Merrell Dow Pharmaceuticals, Inc.* and *Frye v. United States*. Using such diverse ideas and concepts as examples from the theatrical play *Inherit the Wind*, Anthropomorphism, “folk psychology”, and extrasensory perception, Judge Baker theorizes how some non-traditional beliefs and cutting-edge science can wind its way not only into the very fabric of our society but also into our country’s legal system.

