

# Northern Illinois University Law Review

---

Volume 18 | Issue 3

Article 9

---

7-1-1998

## Vol. 18, no. 3, Summer 1998: Table of Contents

Northern Illinois University Law Review

Follow this and additional works at: <https://huskiecommons.lib.niu.edu/niulr>



Part of the [Law Commons](#)

---

### Recommended Citation

Northern Illinois University Law Review (1998) "Vol. 18, no. 3, Summer 1998: Table of Contents," *Northern Illinois University Law Review*. Vol. 18: Iss. 3, Article 9.

Available at: <https://huskiecommons.lib.niu.edu/niulr/vol18/iss3/9>

This Other/Newsletter is brought to you for free and open access by the College of Law at Huskie Commons. It has been accepted for inclusion in Northern Illinois University Law Review by an authorized editor of Huskie Commons. For more information, please contact [jschumacher@niu.edu](mailto:jschumacher@niu.edu).

# Northern Illinois University Law Review

---

Volume 18

Summer 1998

Number 3

---

## Articles

### Baby Richard and Beyond: The Future for Adopted Children

Anthony S. Zito . . . . . 445

*The author sets forth the facts underlying the Baby Richard case from the time he was conceived until the time of his adoption and analyzes the case law which ensued as a result of the situation. The author then addresses the amendment to the adoption act which resulted from the Baby Richard case. The article next explores the Does' possible courses of action and evaluates the chances of them regaining custody. Finally, the article suggests the possibility of a solution for the future of adopted children.*

### Hedge-to-Arrive Contracts: Jurisdictional Issues Under the Commodity Exchange Act

Jennifer Durham King & James J. Moylan . . . . . 481

*This article addresses the conflicting judicial and administrative agency interpretations of a recent innovation in agricultural merchandising known as Hedge-to-Arrive ("HTA") contracts. This article examines the first federal district court opinion upholding HTA contracts as forward contracts, exempt from the Commodity Exchange Act ("CEA") and regulation by the Commodity Futures Trading Commission ("CFTC"). The article also examines the CFTC's approach to regulating HTA contracts in its administrative forum. The CFTC has taken the position that HTA contracts marketed to the general public are illegal futures contracts. A CFTC Administrative Law Judge recently took the position that HTA contracts are not forward contracts, but rather illegal futures contracts under the CEA. The authors conclude that non-speculative HTA contracts between commercial agricultural operators, that provide for actual delivery of the commodity, should be exempt from the CEA and CFTC regulation.*

## Symposium

### Environmental Audits, Privileges from Disclosure, and Small Business Penalty Policies

James E. Meason . . . . . 497

*Federal environmental enforcement is currently on the rise. United States Environmental Protection Agency ("USEPA") statistics indicate an increase in criminal prosecutions and the targeting of individual employees. It is the government's hope to encourage individuals to pay greater attention to environmental laws and regulations. The author contends that knowledge of*

*USEPA's new environmental audit policy is the best protection against criminal prosecution for environmental violations. Under the new audit policy, a company can qualify for 100% punitive penalty reduction by discovering violations through a self-imposed environmental audit and expeditiously remedying those violations. Moreover, the USEPA interim policy implemented on June 23, 1995, promises full or partial penalty waivers to small businesses in exchange for correcting all violations. The author concludes by suggesting the need for environmental audit privileges, such as the work product privilege or the attorney-client privilege, to protect companies from having their own environmental audits used against them to initiate criminal charges.*

**Luncheon Address**

Claire A. Manning ..... 519

**Negotiating Resolution of Environmental Enforcement Actions**

Jon S. Faletto ..... 527

*The author asserts that aggressive identification and correction of compliance problems are the best defenses in an environmental enforcement action. The purpose of the article is to provide an understanding of how civil penalties in environmental enforcement actions are calculated. The author suggests ways in which the civil penalties can be reduced and ways to secure some "return of value" to the company. The author also addresses the concept of recouping the economic benefit of non-compliance. Finally, the author suggests that there may be unanticipated consequences of settling an environmental enforcement action.*

**Comments**

**Bennet v. Spear: Lions, Tigers and Bears Beware; The Decline of Environmental Protection**

Preeti S. Chaudhari ..... 553

*The conservationist purpose of several environmental statutes is eroding. This casenote examines the Supreme Court's decision in Bennett v. Spear, in which the Court expanded standing by holding that even commercial entities may sue under the Endangered Species Act's citizen suit provision. The Note traces the progression and development of standing, both generally and with respect to federal environmental statutes. It then analyzes the Bennett v. Spear decision, focusing on the Supreme Court's shift away from environmental interests and toward those of commerce. Finally, the author offers three strategies to restore the environmental protectionist purpose of the Endangered Species Act.*

**Throwing Like a Girl: Constitutional Implications of Title IX Regarding Gender Discrimination in High School Athletic Programs**

Tracy J. Johnson ..... 575

*This comment examines various approaches to dealing with sexual discrimination in high school sports. The decisions reveal that equal protection under the law is violated if the classification between males and females in connection with team sports is based on stereotypic notions or assumptions. The author suggests that rules which automatically exclude all females from*

*competing with the males for a place on a team violate equal protection and impair the important governmental objective of providing full and equal opportunity to educational programs and activities. Finally, this comment stresses that in order to provide meaningful athletic opportunities to young women, it is the duty of the state to ensure all athletes are allowed to succeed or to fail as one's abilities and fortunes may dictate.*

**Heads Up!: The Baseball Facility Liability Act**

**Ted J. Tierney** ..... 601

*This comment examines law regarding spectator injury at baseball games. The Baseball Facility Liability Act, which was enacted by the Illinois legislature to prevent spectators from recovering damages for injuries suffered at baseball games is specifically analyzed. The author asserts that the current legislation should be stricken from Illinois law, and proposes changes in the law that would lead to more equitable outcomes in cases involving foul balls.*