

# Suffolk Journal of Trial and Appellate Advocacy

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## Editor's Note

Jessica Vedrani  
*Suffolk University*

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## EDITOR'S NOTE

Dear Reader:

On behalf of the Suffolk University Law School Moot Court Honor Board, I am honored to present the first issue in Volume XXIX of the *Suffolk Journal of Trial & Appellate Advocacy*. This issue contains one lead article written by a legal professional and eight student-written pieces from Moot Court Honor Board's third-year staff. Each piece is designed to provide insight and be of practical use to lawyers and judges at both the trial and appellate levels.

The lead article, *Clarifying Contempt in Civil Cases: Appropriate Uses in Florida* was written by Jani Maurer. Jani Maurer is a Professor at the Shepard Broad College of Law, Nova Southeastern University, where she teaches the first year Legal Research and Writing Course, as well as upper-level courses such as Trusts & Estates. She earned her J.D. at New York Law School and currently serves on the Florida Bar Continuing Legal Education Committee. She has written numerous articles on trial and appellate advocacy and is the co-author of a textbook on Florida Wills, Trusts, and Estates. We are honored to publish her article addressing direct and indirect civil and criminal contempt in civil litigation in Florida, specifically the different procedures to be followed by counsel and the courts prior to entry of a judgment of contempt and appellate review of a contempt judgment.

The student-written pieces discuss the following legal topics and cases:

- An exploration of the United States' current ineffective assistance of counsel standards and two propositions to remedy the standards' shortcomings in virtual criminal trials, as compounded by the COVID-19 pandemic (Adrienne Downey);
- An exploration of Big Tech's efforts to classify app-based drivers as independent contractors in states with strong employee-presumption laws, and a prediction that courts will find that app-based drivers in Massachusetts are employees under state law absent new legislative developments (Erin Chow);
- An approach to public high school cell phone restriction that passes constitutional muster and advances policy imperatives for our nation and its youth (William Thompson);
- An exploration of the evolved joint-employer doctrine, a critique of the doctrine's current application as it relates to the nuances of employer status, and a commentary on the legal repercussions of the ongoing failure to hold joint-employers liable for Title VII discrimination of constructive employees (Katie Groves);
- An evaluation of the deference applied in First Amendment as-applied challenges, the Ninth Circuit's shortcomings in failing to abide by the constitutional avoidance doctrine, and insight into the potential pitfalls of departing from justiciability doctrines (Jessica Vedrani);
- A commentary on the use of arbitration clauses in online consumer contracts, addressing their enforceability in light of the increased reliance on internet for consumers and businesses alike (Ian McReynolds);
- An analysis of Anti-Kickback Statute violations under the False Claims Act, emphasizing the Eighth Circuit's correct interpretation of the causation standard and underscoring that

a mere link between kickbacks and referrals is insufficient to establish liability (Lauren Flynn); and

- An analysis on choosing a prevailing party in mixed-judgment cases for the purpose of awarding costs, the Eleventh Circuit's reliance on arithmetic when determining a prevailing party, and the consequential impact on selecting a forum to bring claims (Jeffrey Hernandez).

I sincerely appreciate the hard work of our twenty-five staff members of the Moot Court Honor Board, who worked diligently to edit and cite-check these pieces throughout the semester. A special thank you to our Executive Editor, Adrienne Downey, whose dedication was vital throughout the editing process; our Managing Editor, Emily LaRovere, who provided exceptional support for our staffers and editors; and our Associate Managing Editor, Katie Groves, who provided essential editing assistance and diligently formatted this issue. I would also like to thank our President and Vice President, William Thompson and Meenah Keenan, for their continued support in the editing and publication process; our Associate Executive Editors, Nicole Eidelman, Ryan Heilmann, Jeffrey Hernandez, and Lindsay Kenney, for providing quality editorial feedback and encouraging staff members throughout the editing process; and our Lead Article Editors, Ian McReynolds and Garrett Robinson, for their remarkable work in editing our lead article. Finally, I extend my utmost gratitude to our Board's advisor, Professor Richard G. Pizzano, the Board's Staff Assistants, Lillie Cox, Janine LaFauci, and Kara Ryan, and the Deans and Faculty of Suffolk University Law School for their continued support of the *Suffolk Journal of Trial & Appellate Advocacy*.

Moot Court Honor Board dedicates this edition to our former, longtime Chief Administrative Assistant, Janice Quinlan, who sadly passed away on December 19, 2023. Ms. Quinlan was an integral part of the Moot Court team during her tenure with Suffolk Law School and will be missed by many students, faculty, and staff members.

I sincerely thank you for reading our first issue in Volume XXIX of the *Suffolk Journal of Trial & Appellate Advocacy*. I am confident that judges, practitioners, professors, and students will benefit from our scholarship. I hope that you will find this Issue thought-provoking, relevant, and useful.

Sincerely,

A handwritten signature in black ink, reading "Jessica Vedrani". The signature is fluid and cursive, with the first name "Jessica" written in a larger, more prominent script than the last name "Vedrani".

Jessica Vedrani

Editor-in-Chief