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University of Alabama School of Law

1992–present Douglas Arant Professor of Law

1984–1992 Professor of Law (from 1989), Associate Professor (1987–89), Assistant Professor (1984–87)

1996–2004 Director, Pension Counseling Clinic (supported by grants from United States Administration on Aging)

Academic Visits

2009 (Spring) Visiting Professor, Vermont Law School

2008 (Fall) Visiting Professor, Mack School of Law, Drexel University

2007 (Fall) Visiting Professor, Columbus School of Law, Catholic University

2006 (Fall) Visiting Professor, Vermont Law School

2002-2003 Visiting Professor, University of Maine

2000 (Fall) Visiting Professor, University of Maine

1996–1998 Visiting Professor, University of California at Davis

1996 (Spring) Professor, IRS Chief Counsel's Continuing Education Program

1991–1992 Visiting Professor, Indiana University at Bloomington

1987 (Spring) Visiting Assistant Professor, University of Texas at Austin

Legal Experience

1981–1984 Associate Attorney, Atlanta, Georgia (Trotter, Bondurant, Miller & Hishon; Kilpatrick & Cody)

1980–1981 Law Clerk, Hon. Gerald Bard Tjoflat, United States Court of Appeals for the Fifth Circuit, Jacksonville, Florida

1978–1980 Associate Attorney, Washington, D.C. (Arnold & Porter)

Degrees

1978	J.D. (with honors, Order of the Coif, ranked 5th in class), Duke University School of Law, Durham, North Carolina
1973	B.A. in English, New College, Sarasota, Florida

Publications, Panels, Presentations

Articles

Repeal Tax Incentives for ESOPs, 125 Tax Notes 337 (2009)

Slouching Toward a Consumption Tax and the End of Retirement Income Security, 7 Fla. Tax Rev. 739 (2008)

Point/Counterpoint on Cash Balance Plans, in ABA Employee Benefits Committee, Labor Section Newsletter (March 2004)

An Alphabet Soup Agenda for Reform of the Internal Revenue Code and ERISA Provisions Applicable to Deferred Compensation Plans, 56 SMU L Rev. 627 (Winter 2003).

Three and Possibly Four Lessons About ERISA That We Should, But Probably Will Not Learn, From Enron, 76 St. John's Law Review 855 (2002).

Leverage, Linkage, and Leakage: Problems with the Private Pension System and How They Should Inform the Social Security Reform Debate, 58 Washington & Lee L. Rev. 1369 (2001) (with Patricia Dilley).

Cross-Tested Defined Contribution Plans: A Reply to Professor Zelinsky, 49 Buffalo L. Rev. 189 (2001)(with Peter Orszag), reprinted in 2001 New York University Institute on Federal Taxation, Employee Benefits and Executive Compensation Volume, 12-1 (2001).

Point/Counterpoint, A Controversy Over Age in an Age of Cash Balance Controversy, 20 ABA Tax Section Newsletter No. 4, 16 (2001), reprinted in 14 Benefits Law Journal No. 3, 83 (2001).

Discussion on Cash Balance Plans, in "The Future of Private Pensions; Proceedings of the 2001 Annual Meeting of the Association of American Law Schools, Section on Employee Benefits, 2001," in 5 Employee Rights and Employment Policy Journal 351 (2001).

Some Lessons from History: The Origins of Pension and Profit-Sharing Taxation, 2000 New York University Institute on Federal Taxation, Employee Benefits and Executive Compensation Volume, 12-1 (2000).

Beware, The Rich Are Getting Richer, *Los Angeles Times*, Op Ed Section, August 30, 2000 (reprinted in *St. Petersburg Times* and *Chicago Sun Times*).

Retirement in the Balance: Some Serious Questions about Cash Balance Plans, Contingencies, Journal of the American Academy of Actuaries, September/October 1999 Contingencies 28 (1999).

To Tell the Truth: Does ERISA Immunize An Employer from Liability for Fraudulent Misrepresentations About An Employee Benefit Plan? 2 American Bar Association Preview of Supreme Court Cases 64 (1995).

Simplification and IRC § 415, 2 Florida Tax Rev. 69 (1994).

A Taste of Federalism: Does ERISA Preempt State Law That Favors Some Health Care Payers Over Others? 4 American Bar Association Preview of Supreme Court Cases 174 (1994).

A Matter of Limited Interest: Does An Employer Pay Interest for the Year in Withdrawal from a Multiemployer Pension Plan? 3 American Bar Association Preview of Supreme Court Cases 116 (1994).

ERISA and the Limits of Equity, 56 Law & Contemporary Problems 71 (1993).

Pensions—Or Perks for the Affluent, *New York Times*, Sunday Business Section, Forum Op Ed, September 20, 1992 (with Professor David Mermelstein).

What Happens To Assets in a Multiemployer Employee Benefit Plan When Some Employers Withdraw and Set Up a New Plan? 4 American Bar Association Preview of Supreme Court Cases 40 (1992).

Some Policy Implications of the Small-Plan Audit Trials, 55 Tax Notes 1407 (1992).

Pension Plans and Tax Expenditures: A Reply to Professor Zelinsky's "Classic Defense of the Status Quo," 9 Am. J. Tax Plc'y 155 (1991).

Reversions from Pension Plans: History, Policies, and Prospects, 44 Tax L. Rev. 259 (1989).

The Curious Origins and Curiouser Evolution of the Term Erroneous Actuarial Computations in Treas. Reg. § 1.401-2(b), 43 Tax Notes 335 (1989).

Taxing Reversions from Pension Plans, 35 Tax Notes 1131 (1987).

Raiders of the Corporate Pension Plan: The Reversion of Excess Plan Assets to the Employer, 5 Am. J. Tax Plc'y 117 (1986).

Books

Boren and Stein, Qualified Deferred Compensation Plans (West Group, two volumes).

Stein, Pension & Profit-Sharing Plans (RIA, Tax Advisors Planning Series, 1994).

Stein, Pension & Profit-Sharing Plans (RIA, Tax Advisors Planning Series, 2nd edition, 1996).

Family Wealth Management (West August 2005)(contributing author, edited by William J. Turnier and Grayson M.P. McCouch).

Book Supplements

Boren and Stein, Qualified Deferred Compensation Plans: Spring and Fall Supplements, 1988–2009 (1991–93 with Carolyn Smith).

Book Chapters

Traditional Defined Benefit and Defined Contribution Plans, in Taxation of Retirement Plans, edited by Alvin Lurie (LexisNexis Press 2008)

Civil War Pensions, in Encyclopedia of Major Congressional Acts (2004).

The 1894 Income Tax and the Wilson-Gorman Tariff Act, in Encyclopedia of Major Congressional Acts (2004).

"Of Carrots and Sticks: The Paring Down of the Qualified Plan Paradigm," in American Bar Association-American Law Institute Pension Policy Conference, ERISA after 25 Years Conference Materials (1999).

"ERISA," in Vitt & Siegenthaler, Encyclopedia of Financial Gerontology (Greenwood Press 1996).

"Age Discrimination in Employment Act," with Turner, in Encyclopedia of Financial Gerontology (Greenwood Press 1996).

"Early Retirement Benefit Programs" in Monk, Columbia Encyclopedia on Retirement (Columbia University Press 1993).

"The Costs of ERISA Preemption," in American Bar Association–American Law Institute, Pension Invitational Conference Materials (1992).

"Trust Law and Pension Plans" in McGill, Proxy Voting by Pension Plan Equity Securities 1–61 (Richard D. Irwin Inc. 1988).

Newsletter

Editor, Adams & Reese Employee Benefits Newsletter, 2003 through 2008.

(The newsletters are available on the Adams and Reese website: http://www.adamsandreese.com/news_and_events/newsletters.html .)

Interviews

Interview with Professor Norman P. Stein, 17 ABA Section of Taxation Newsletter No. 2, pp. 13–17 (1998).

Selected Panels and Presentations

Presenter, Health Care Reform Debate, Federalist Society, Birmingham Alabama, October 27, 2009

Presenter, Retirement-USA Conference, Kaiser Family Foundation (conference funded by Ford Foundation and Atlantic Philanthropies), October 21, 2009

Presenter, 401(k) Plans and Retirement Policy, ERIC (ERISA Industry Committee, trade group of Fortune 200 Companies), Annual Meeting, Washington, D.C.,

Presenter, Humpty Dumpty Retirement Policy, Harvard Law School Capital Matters Conference, Cambridge, Mass., May 1, 2009

Presenter, Retirement-USA Conference, National Press Club, Washington, D.C., March 10, 2009

Presenter, New Issues with Defined Benefit Plans, General Accounting Office Expert Panel on Retirement Security, Washington, D.C. December 5, 2008

Panel Participant, "Conversation on Coverage," sponsored by Ford Foundation and Pension Rights Center, Washington, D.C., July 15, 2004.

Lecturer, CLE Presentation on Pension Litigation, Cincinnati, Ohio, Ohio Legal Services for Elderly (March 12, 2004); St. Louis Missouri, Older Woman's League (March 13, 2004); Lansing Michigan, ProSeniors (April 2, 2004); Minneapolis, Minnesota Seniors Federation (April 9, 2004).

Panel Participant, Fixed Income Forum, Annual Meeting, Boston Massachusetts, March 15, 2004.

Presenter, Retirement Policy in an Increasingly Consumption Tax World, Ohio State University, Moritz College of Law, October 15, 2003, symposium on retirement security.

Presenter, Issues Concerning Delta Pension Plans, October, 2003, Atlanta, Georgia (discussed pension issues with approximately 500 Delta employees and retirees).

Presenter, "Communicating Benefit Options to Participants," 2002 Enrolled Actuaries Annual Conference, Washington, D.C., March 6, 2002.

Co-moderator, "From Great Expectations to Bleak House: Preparing a Benefits Case for Litigation," 2001 ABA Annual Meeting, Chicago, Illinois, program of Committee on Employee Benefits, Torts and Insurance Practice Section, August 5, 2001.

Presenter and Working Group Leader, A Conversation on Coverage (co-sponsored by Ford Foundation, Kellogg Foundation, Pension Rights Center, Century Foundation, Urban Institute, Employee Benefits Research Institute, TIAA-CREF, AARP, and Fidelity Investments), July 24-25, 2001.

"Death of Retirement Policy," Washington & Lee University Symposium on Social Security Reform, April 2, 2001.

"Cash Balance Plans and the Older Worker," program of AALS Section on Employee Benefits, 2001 AALS Annual Meeting, San Francisco, January 6, 2001.

Panelist and Planning Chair, "An ERISA Primer," Alabama Bar Institute Continuing Legal Education Foundation, Birmingham, Alabama, September 15, 2000.

"Lessons from History, The Development of Early Pension Tax Rules, 1913-1942," University of Wisconsin, Tax Theory Workshop, April 15, 2000.

"Qualified Domestic Relations Orders: Emerging Issues," ABA Tax Section Meeting, Combined Program of Committees on Employee Benefits and Domestic Relations, Washington, D.C., May 13, 2000.

"Cash Balance Plans," Coalition for Retirement Security, Washington, D.C. February 8, 2000.

"Of Carrots and Sticks: The Rise and Decline of the Qualified Plan Paradigm," Edward C. Clyde Distinguished Visiting Scholar, University of Utah School of Law, November 22, 1999.

"Tax Carrots and Regulatory Sticks: Using Tax Incentives to Encourage Employer Sponsorship of Socially Desirable Retirement Plans," ALI-ABA Pension Policy Conference "ERISA After 25 Years," Washington, D.C., October 1, 1999

Panelist, Retirement and Estate Planning, program of AALS Section on Trust and Fiduciary Law, 1999 Annual Meeting of the AALS, New Orleans, Louisiana, January 9, 1999.

Speaker, "A Day of Discussion on Pension Issues for Women," Women's Bureau of the United States Department of Labor, San Francisco, May 16, 1997.

Panelist, Pension Help Summit, co-sponsored by United States Department of Labor, Pension Benefit Guaranty Corporation, and Administration on Aging, January 25, 1997.

Moderator, Panel on Baby Boomers and Retirement, combined program of AALS Sections on Trust and Fiduciary Law, Employee Benefits, and Legal Issues of the Elderly, 1997 AALS meeting, Washington, D.C., noted in "Panelists Tackle Tax Process, Reform, and Generational Issues, 74 Tax Notes 137 (1997).

Co-Organizer, Program on Domestic Partner Benefits, combined program of AALS Sections on Gay and Lesbian Issues, and Employee Benefits, 1997 AALS meeting, Washington, D.C.

CLE Presentations on "Introduction to Employee Benefits Law," at five Legal Services Corporation locations in Alabama, Summer 1996.

Presenter, Problems with ERISA Preemption, St. John's Law School, Queens, New York, October 28, 1993.

Panelist, American Bar Association Tax Section, Employee Benefits Committee meeting, panel on section 415, Washington, D.C., May 7, 1993.

Leader of Employee Benefits Workgroup, "Taxation Workshop," Association of American Law Schools, Washington, D.C. (October 21–22, 1992).

Panelist, "The Future of Retirement," Holland House Centennial Conference on Retirement, Grand Rapids, Michigan (October 15, 1992).

"ERISA and Equity," Law & Contemporary Problems Symposium on Modern Equity, Durham, North Carolina (March 20, 1992).

"The Costs of ERISA Preemption," ALI–ABA Pension Policy Invitational Conference, Washington, D.C (Oct. 26, 1991).

Moderator, Panel on Teaching Employee Benefits, American Bar Association Annual Meeting, Tax Section, Employee Benefits Committee, Atlanta, Georgia (Aug. 9, 1991).

"Trust Law & Pension Plans," Pension Research Council, Proxy Voting of Pension Plan Equity Securities, Ralph H. Blanchard Memorial Series, Wharton School, University of Pennsylvania, Philadelphia, Pennsylvania (May 6, 1989).

Testimony Before Congress and Federal Agencies

Testimonay before United States House of Representatives Committee on Health, Education, Labor and Pensions, on "Delphi Employees and Pension Losses", December 2, 2009

Testimony before United States House of Representatives Committee on Ways and Means, on Defined Benefit Plan Funding, October 1, 2009

Testimony before the Department of Labor Advisory Council on Employee Welfare and Employee Retiree Plans, on "Approaches to Retirement Security in the United States, September 17, 2009.

Testimony before United States House of Representatives Committee on Health, Education, Labor and Pensions, on "Retiree Health Benefits," September 25, 2008.

Testimony before ERISA Advisory Council, United States Department of Labor, on subject of Annuitization, September 9, 2008.

Testimony before ERISA Advisory Council, United States Department of Labor, on subject of Phased Retirement, September 8, 2008.

Testimony before United States House of Representatives Committee on Health, Education, Labor and Pensions, on "Securing Retirement Coverage for Future Generations," November 28, 2007.

Testimony before the United States House of Representatives Committee on Ways and Means, on "Disclosure and Appropriateness of Fees in Retirement Plans," October 30, 2007.

Testimony before ERISA Advisory Council, United States Department of Labor, on subject of Phased Retirement, on the subject of Hedge Funds and Cross Trading, September 20, 2006.

Testimony before United States House Committee on Education and the Workforce, on "The Retirement Security Crisis: The Administration's Proposal for Pension Reform and its Implications for Workers and Taxpayers, March 2, 2005.

Testimony before ERISA Advisory Council, United States Department of Labor, on subject of Mutual Fund Fees in 401(k) Plans, September 14, 2004.

Testimony before United States Senate Governmental Operations Committee, on the Pension Benefit Guaranty Corporation, May, 2004.

Testimony before the United States House Ways and Means Committee, on "Pension Funding Crisis," February, 2004.

Testimony before United States Senate Health, Education, Labor and Pensions Committee, on "Pension Policy and Enron," February 20, 2002.

Testimony before United States House Committee on Education and the Workforce, Subcommittee on Employer-Employee Relations, "Hearings on Enron and Beyond: Enhancing Worker Retirement Security," February 13, 2002.

Testimony before ERISA Advisory Council, United States Department of Labor, on subject of Phased Retirement, August 15, 2000.

Testimony before ERISA Advisory Council, United States Department of Labor, on subject of Cash Balance and other Hybrid Pension Plans, July 14, 1999.

Testimony before the Ways & Means Subcommittee on Oversight, House of Representatives, on subject of pension reform, March 23, 1999.

Testimony before United States Department of Labor, on Proposed Regulations on Claims Procedures for Employee Benefit Plans, February 18, 1999.

Testimony before ERISA Advisory Council, United States Department of Labor, on subject of Section 401(k) Plans and Investment in Employer Stock, September 15, 1997.

Testimony before Senate Banking Committee, on subject of Cannon Mills Pension Plan Termination, July 25, 1991 (field hearing in Kannapolis, North Carolina).

Testimony before House Select Committee on Aging, Subcommittee on Retirement Income and Employment, on subject of Pension Annuity Protection and the Failure of Executive Life, June 25, 1991.

Testimony before ERISA Advisory Council, United States Department of Labor, on subject of Relationship of Pension Plan Purchase of Commercial Annuity Contract Purchases and Participant Benefit Security, September 4, 1990.

Testimony before Senate Subcommittee on Labor, on subject of Terminating Pension Plans and Junk Annuity Contracts, February 12, 1990.

Testimony before House Committee on Ways and Means, Subcommittee on Oversight, on subject of Pension Benefit Guaranty Corporation's Proposal to Adopt a Variable Rate Premium, April 9, 1987.

Testimony before ERISA Advisory Council, United States Department of Labor, on subject of Pension Plan Reversions, June 12, 1986 (on behalf of Reversion Study Group, an ad hoc group of representatives of the American Association of Retired Persons, the AFL–CIO, the United Auto Workers of America, the Pension Rights Center, and others).

Media

Guest, *Marketplace* (National Public Radio, July 29, 2004, discussion of airline industry pension difficulties).

Guest, *Marketplace* (National Public Radio, October 14, 2003, discussion of Pension Benefit Guaranty Corporation)

Guest, CNBC News, 2002, discussion of 4021(k) plan investments in employer stock.

Guest, *Morning Edition* (National Public Radio, 2001, discussion of pension provisions of 2001 tax legislation)

Guest, *Marketplace* (National Public Radio, 1995, discussion of Congressional proposals on pension plan taxation).

Guest, *Sunday Morning with Charles Kuralt* (CBS Television, discussion of pension plan issues, August 4, 1991).

Guest, *Good Morning America* (ABC Television, discussion of reversions from pension plans, February 12, 1990).

Consultant, *The Pension Cookie Jar* (NBC Television, documentary on pension plan terminations, August 4, 1988).

Quoted in articles on pension and employee benefit matters in New York Times (approximately 35 times), Wall Street Journal (approximately 15 times), Washington Post, Newsweek, USA Today (approximately 15 times), Christian Science Monitor, National Law Journal, Tax Notes, Newsday, Dallas Daily News, Baltimore Sun, Los Angeles Times, Chicago Tribune, Chicago Sun Times, Raleigh News and Observer, Portland Oregonian, Seattle Times, Hartford Daily Courant, Plan Sponsor Magazine, Pensions and Investments, Modern Maturity, BNA Employee Benefits Reporter, CFO Magazine, and numerous other publications.

Grants

Principal Investigator, $450,000 Continuing Grants, Administration on Aging, 1996-2004 (grant to support pension counseling clinic).

Tenure, Promotion and Hiring Scholarship Reviews

Tulane, Cornell, William & Mary, Illinois, University of California at Davis, Kentucky, Penn State, Tennessee, Loyola of Los Angeles, St. John's, Penn State, Washington & Lee, Chapman, Oklahoma, Georgia, Georgia State, Stetson, Missouri.

Manuscript Reviews: Carolina Academic Press; Oxford University Press.

Professional Memberships, Appointments and Service

Charter Member; Member of Board of Governors (3-year term, beginning September 2008), American College of Employee Benefits Counsel.

Member, National Advisory Commission, Workplace 2010 (research, outreach, and consensus-building effort on national workplace flexibility based at Georgetown Law School).

Participant, Retirement 2020 (project of American Academy of Actuaries on developing principles for retirement system for future).

Participant, DB+ Initiative (project to develop framework for retirement system for next generation of American workers; participants include experts affiliated with AFL-CIO, AARP, SEIU, Economic Policy Institute).

Participant, Brookings Institute Study Group on Cash Balance Plans (group of dozen invited participants to study cash balance plans, met 6 times during 2004 and 2005)

Co-Manager, Employee Benefits Review Panel, The Shelf Project, sponsored by Tax Notes Magazine (project to develop revenue-raising tax proposals consistent with good tax policy).

Member, General Accounting Office Panel on Retirement Income Security (appointed in 2004, meets once per year with the Comptroller General of the United States, and members meet numerous times during year with GAO researchers).

Member, Department of Labor Advisory Council on Employee Retirement and Welfare Benefit Plans (appointed to three year term in November 2000 by Secretary of Labor Alexis Herman; rotated off in November 2003).

Member, Steering Committee, Conversation on Coverage (project convened by Pension Rights Center, and funded primarily by the Ford Foundation (with additional funding from TIAA-CREF, AFL-CIO, AARP, The American Benefits Counsel, MetLife, Motorola, the American Society of Pension Actuaries), to bring people of different perspectives together to develop strategies to increase pension coverage among moderate and lower-income workers).

Delegate, Third White House Summit on Retirement Savings, Washington, D.C. (March 1-March 3, 2006).

Delegate, Second White House Summit on Retirement Savings, Washington, D.C., February 27, 2002-March 1, 2002).

Academic Advisor to the Joint Committee on Taxation in Connection with a Study of the Overall State of the Federal Tax System, United States Congress, 2000-2001.

Member, National Academy of Social Insurance (2000-Present)

Charter Fellow, American College of Employee Benefits Counsel (2000-Present); Member, Board of Trustees (2008-2011)

Member, Board of Directors, Coalition Against Poverty, Inc. (2000-2002)

Treasurer, Society of American Law Teachers (1998–2007)

Chair, Employee Benefits Section, Association of American Law Schools (1996)

Chair, Teaching Employee Benefits Committee, American Bar Association Section on Taxation (1991); Vice-Chair, Employee Benefits Committee, American Bar Association Insurance Practices Section (1997–present)

Member, *Pension & Benefits Reporter* Advisory Panel, Bureau of National Affairs, Washington, D.C. (January 1988–present)

Reviewer, Grant Applications, Retirement Research Foundation, Chicago, Illinois.

Fellow, Employee Benefits Research Institute, Washington, D.C. (1994–present)

Reviewer, Administration on Aging Grant Applications in Pension Area (1994, 1996, 1998)

Consulting Pension Counsel, American Association of Retired Persons (1983–1994): preparation of amicus curiae briefs on behalf of AARP in pension cases, including *Firestone Tire & Rubber Co. v. Bruch*, 489 U.S. 101 (1988), *Mead Corp. v. Tilley*, 490 U.S. 714 (1989) and *Mertens v. Hewitt Associates*, 508 U.S. 248 (1993)

Consultant, General Accounting Office (Pension Equity Group), Washington, D.C. (1988–90)

Pro-Bono counsel in pension cases and appointed capital punishment cases, including *Morgan v. Zant*, 743 F.2d 775 (1984) and *Daughtrey v. Honeywell, Inc.*, 3 F.3d 1488 (1993).

University Service

1995–1996	President, University of Alabama Faculty Senate
From 1988	Senator, University of Alabama Faculty Senate (1988–91, 1994–96, 2006-2008; 1998-2000, Secretary 1999-2000); Member, University of Alabama Presidential Search Committee (1995–96); Chair, Mediation and Grievance Committee (1988–89); Resources & Priorities Committee (1994–96); Staff and Faculty Benefits Committee (1989–92, 1998–2001; 2006-2007); Research Advisory Committee (1986–1989).

Law School Service

From 1984	Tax Moot Court Adviser (1999-present); National Moot Court Team Adviser (1994–96); Alabama Law Review Adviser (1987–89); BLSA Faculty Adviser (1987–90); Acting Director, Graduate Tax Program (1985); numerous Law School

committees, including Hiring (Chair, 2001-02), Development, Curriculum, Library, and Diversity.

Courses Taught

Federal Income Taxation (25 times)

Employee Benefits (22 times, including 2 times in graduate tax program)

Employee Benefits Clinic (8 times)

Corporate Tax (4 times)

Taxation of Business Enterprises (8 times)

International Taxation (2 times)

Advanced Income Taxation (2 times)

Tax Accounting (2 times in graduate tax program)

Poverty Law (8 times)

Labor Law (4 times)

Business Associations (2 times)

Law and Literature (6 times)

Will Drafting (2 times)

Gender and the Law (2 times)

Law and the Elderly (2 times)

Introduction to Financial Planning (3 times)

References

Martha Morgan
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Pension Rights Center
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Stanley S. Surrey Professor of Law
Harvard University School of Law
Cambridge, Massachusetts. 02138
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University of Florida Levin School of Law
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Gainesville, Florida 32611
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Southern Center for Human Rights
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Atlanta, GA 30303
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