

# Washington University Law Review

---

Volume 88 | Issue 1

---

2010

## Table of Contents

Follow this and additional works at: [https://openscholarship.wustl.edu/law\\_lawreview](https://openscholarship.wustl.edu/law_lawreview)

---

### Recommended Citation

*Table of Contents*, 88 WASH. U. L. REV. (2010).

Available at: [https://openscholarship.wustl.edu/law\\_lawreview/vol88/iss1/7](https://openscholarship.wustl.edu/law_lawreview/vol88/iss1/7)

This Table of Contents is brought to you for free and open access by the Law School at Washington University Open Scholarship. It has been accepted for inclusion in Washington University Law Review by an authorized administrator of Washington University Open Scholarship. For more information, please contact [digital@wumail.wustl.edu](mailto:digital@wumail.wustl.edu).

# Washington University Law Review

---

VOLUME 88

NUMBER 1

2010

---

© 2010 by Washington University

## CONTENTS

### ARTICLES

- IN SEARCH OF A THEORY OF DEFERENCE:  
THE EIGHTH AMENDMENT,  
DEMOCRATIC PEDIGREE, AND  
CONSTITUTIONAL DECISION MAKING ..... *Eric Berger* 1
- THE SCOPE OF CONGRESS'S THIRTEENTH  
AMENDMENT ENFORCEMENT  
POWER AFTER *CITY OF BOERNE*  
*V. FLORES*.....*Jennifer Mason McAward* 77
- MEASURING THE TRUE COST OF  
GOVERNMENT BAILOUT.....*Cheryl D. Block* 149

### NOTES

- NEW TWISTS ON AN OLD PLOT:  
INVESTORS LOOK TO AVOID THE  
WASH SALE RULE BY HARVESTING  
TAX LOSSES WITH EXCHANGE-  
TRADED FUNDS.....*Garrett M. Fischer* 229
- TREMENDOUS UPSIDE POTENTIAL:  
HOW A HIGH-SCHOOL BASKETBALL  
PLAYER MIGHT CHALLENGE THE  
NATIONAL BASKETBALL  
ASSOCIATION'S ELIGIBILITY  
REQUIREMENTS .....*Joseph A. Litman* 261

### COMMENTARY

- JUSTICE SOUTER AND THE CIVIL RULES.....*Scott Dodson* 289