

# Spring 2024 Comments Manual

*COLUMBIA LAW REVIEW*

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## I. INTRODUCTION

Welcome! The *Columbia Law Review* is excited for you to participate in the Comments Program. Through the Program, any law school student, at Columbia or at a non-Columbia ABA- accredited law school, may submit a short piece of student scholarship for consideration by the *Columbia Law Review*'s Notes Committee. If selected for publication, that student's Comment will be published on *CLR Forum*, the *Review*'s online component. For rising 3Ls, they will receive an invitation to join the *Review* as 3L staff editors.

The Comments Program helps the *Review* achieve several of its major objectives as a premier student-run legal journal. First, it helps ensure that the scholarship the *Review* publishes is current, relevant, and of practical import to the legal community. Law students produce much of the cutting-edge commentary on the state of law and doctrine. Second, the Comments Program helps continue to grow the *Review*'s online presence.

In turn, there are many reasons for student authors to participate in the Comments Program. First, writing a Comment is a great opportunity for a law student to delve deeply into a particular area of law. Second, participation in the Comments Program may satisfy a student's Minor Writing Credit graduation requirement. Lastly, having a piece of student work published may help students get clerkships or begin careers in academia after graduation, not to mention the satisfaction of sharing a piece of scholarship with the world.

Comments will be accepted on a rolling basis until **May 28, 2024, at noon**. This should give you at least two weeks after finals to adapt any coursework into a Comment for publication.

## II. WHAT IS A COMMENT?

A Comment is a short piece of student-authored legal scholarship, typically about fifteen pages long, discussing a recent and important judicial decision, analyzing a development in the law, or advancing a novel legal idea. Published Comments serve as useful resources for legal scholars and practitioners and may even be relied upon by judges in reaching decisions.<sup>1</sup> Your Comment should make a suggestion, lend itself to a solution, or level a specific critique of a case or doctrine.

While the traditional Comment is a “case Comment”—it identifies a specific, very recent, notable case; details the decision; and advises the reader on the implications of that decision—the *Review* also considers Comments that look beyond judicial decisions to other developments in the law or novel legal ideas, such as new or pending legislation, a recent executive or administrative action, or a new take on an existing doctrine.

For a Comment to be successful, the problem or issue discussed *must be novel*. It is not enough to write about a new decision or development that simply perpetuates a problem that has already been discussed or written about at length in other legal scholarship.

By virtue of their very focused scope, Comments are shorter than Notes. Comments take a clear position on the case or issue they address, but in a respectful and non-confrontational way. Further, a successful Comment recognizes all sides of the issue discussed within the limits imposed by brevity. By doing so, a Comment’s author assures their reader that nothing is being hidden, which lends credibility to the position they ultimately take. In short, a Comment should articulate a position forcefully while treating contrary arguments seriously and respectfully.

### Common Types of Comments

- **The Circuit Split Comment:** This Comment identifies a new circuit split arising out of a recent circuit court decision. While a circuit split is a topic commonly seen in student Notes, a circuit split can successfully be discussed in a Comment if the issue or problem arising from the split is new and can be treated in approximately fifteen pages.
- **The Statutory Construction Comment:** This Comment argues that a recent judicial decision has misread or misinterpreted the text of a statute and advocates for an alternative reading of the law.
- **The Policy Effects Comment:** This Comment explores potential adverse policy effects of a recent judicial decision or statute or examines policy considerations that the decision or statute may have failed to recognize.
- **The Reasoning Critique Comment:** This Comment critiques a case decision’s reasoning in an original way. This type of Comment will be most effective when it critiques the court’s reasoning as internally inconsistent with its premises or notes faulty assumptions held by the court in coming to its decision. A Comment that merely echoes criticism from

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<sup>1</sup> See, e.g., *Sutterfield v. City of Milwaukee*, 751 F.3d 542, 572 (7th Cir. 2014) (citing John L. Schwab & Thomas G. Sprankling, *Houston, We Have a Problem: Does the Second Amendment Create a Property Right to a Specific Firearm?*, 112 Colum. L. Rev. Sidebar 158 (2012)); *McComish v. Bennett*, 611 F.3d 510, 521 (9th Cir. 2010) (citing Case Comment, *Leading Cases—Constitutional Law—Freedom of Speech and Expression—Campaign Finance Regulations*, 122 Harv. L. Rev. 375 (2008)); *United States v. Lawson*, 535 F.3d 434, 440–41 (6th Cir. 2008) (citing Kory A. Langhofer, *Comment, Unaccountable at the Founding: The Originalist Case for Anonymous Juries*, 115 Yale L.J. 1823, 1826–31 (2006)).

a dissent or that simply disagrees with the court's reading of precedent will not be effective.

This is by no means an exclusive list. As noted above, the *Review* is open to considering Comments of all types, as long as they address a novel legal issue and make a unique contribution to legal scholarship.

### Examples of Successful Comments

The following Comments have been published by the *Review* on *CLR Forum* in recent years:

- Olivia Lu, In Flight From U.S. Law by Remaining at Home Abroad?: *United States v. Bescond's* Impact on Interlocutory Appeal of Fugitive Disentitlement Under the Collateral Order Doctrine ([link](#))
- Alison Hung, Municipal Liability for Judicially Promulgated Bail Schedules after *Daves v. Dallas County* ([link](#))
- Damonta D. Morgan, Who Are to Be Our Governors? The Right of Access to Police ID ([link](#))
- Eitan Arom, Members as Monitors: In Search of the Ideal Nonprofit Principal ([link](#))
- Kori Cooper, Why and How U.S. Law Schools Ought to Promote Inclusion of Black Scholars and Legal Practitioners in Chinese Legal Studies Programs ([link](#))
- John J. Martin, Self-Funded Campaigns and the Current (Lack of?) Limits on Candidate Contributions to Political Parties ([link](#))
- Tyler Becker, When Congress Makes No Policy Choice: The Case of FTC Data Security Enforcement ([link](#))
- Mary Marshall, The Promise of *Porter*? *Porter v. Clarke* and Its Potential Impact on Solitary Confinement Litigation ([link](#))
- Edward K. Olds, Trespass and Vandalism or Protecting that Which Is Holy? The Missing Piece of Religious Liberty Land-Use Claims ([link](#))
- Phillip Dane Warren, The Impact of Weakening *Chevron* Deference on Environmental Deregulation ([link](#))

The below Comments from other law reviews have either been cited in recent years or are otherwise additional samples of great Comments:

- Kory A. Langhofer, Comment, Unaccountable at the Founding: The Originalist Case for Anonymous Juries, 115 Yale L.J. 1823 (2006) (analyzing *U.S. v. Shyrock*, 342 F.3d 948 (9th Cir. 2003)).
- Case Comment, Recent Cases—Evidence—Sixth Circuit Holds that *Tarasoff* Disclosures Do Not Vitiating Psychotherapist–Patient Privilege, 114 Harv. L. Rev. 2194 (2001) (analyzing *United States v. Hayes*, 227 F.3d 578 (6th Cir. 2000)).
- Case Comment, Leading Cases—Constitutional Law—Freedom of Speech and Expression—Campaign Finance Regulations, 122 Harv. L. Rev. 375 (2008).

- Eric Citron, Comment, *United States v. Pho*: Reasons and Reasonableness in Post-*Booker* Appellate Review, 115 Yale L.J. 2183 (2006).
- Case Comment, Recent Cases—Civil Rights—Americans with Disabilities Act—District Court Approves Settlement Requiring Movie Theaters to Provide Closed Captioning for Deaf and Hard of Hearing People, 118 Harv. L. Rev. 1777 (2005) (analyzing *Ball v. AMC Entertainment, Inc.*, 315 F. Supp. 2d 120 (D.D.C. 2004)).
- Case Comment, Recent Cases—Tort Law—Prenatal Injuries—Supreme Court of Illinois Refuses to Recognize Cause of Action Brought by Fetus Against Its Mother for Unintentional Infliction of Prenatal Injuries, 103 Harv. L. Rev. 823 (1990) (analyzing *Stallman v. Youngquist*, 531 N.E.2d 355 (Ill. 1988)).<sup>2</sup>

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<sup>2</sup>It is rumored that President Barack Obama authored this Comment while a student at Harvard Law School. See Jeffrey Ressler & Ben Smith, Exclusive: Obama's Lost Law Review Article, Politico (Aug. 22, 2008), <https://www.politico.com/story/2008/08/exclusive-obamas-lost-law-review-article-012705> [<https://perma.cc/79HQ-D95K>].

### III. WRITING A COMMENT

#### Selecting a Topic

Comments track recent developments in the law. Therefore, mainstream sources for legal news, such as the *New York Times*, may be a good place to start in finding an appropriate topic. In addition, legal databases, such as Westlaw and Lexis, have recent judicial decisions available, and Bloomberg Law in particular maintains a fairly up-to-date list of circuit splits. Further, legal blogs, such as those below, may also provide ideas for a Comment:

- 9th Circuit Blog: <http://circuit9.blogspot.com/>
- Balkinization: <http://balkin.blogspot.com>
- How Appealing: <https://howappealing.abovethelaw.com>
- Jurist: Paper Chase: <http://jurist.org/paperchase>
- Law Professor Blog Network: <http://www.lawprofessorblogs.com>
- Lawfare: <http://www.lawfareblog.com>
- SCOTUSblog: <http://www.scotusblog.com>

You can also often adapt other research you have done at CLS, such as research for a professor or conducted for a seminar paper, into a Comment; however, a research memorandum or seminar paper would likely need to be substantially adapted in order to be a suitable Comment for publication.

If you do this, please be sure to check with the Registrar and your professors about whether it is appropriate to “double-dip” research—that is, to use the same body of research for two requirements or work products. Further, please note that CLS does not permit you to use the same work product for multiple course credits.

#### Research Advice

While there is no one “right” way to conduct research, the key is to develop a consistent method for gathering and tracking research material early on in the process. Below are some helpful tips for this process:

- Learn the background law. Casebooks and hornbooks can be a good starting point in this regard.
- Talk to professors with expertise in the subject at issue in your Comment. Professors are great resources for getting a sense of what prior treatment your issue has received and for answering specific questions regarding the background law.
- Once you have a solid idea for a Comment, discuss research methods with a research librarian. This is particularly helpful if your Comment incorporates less traditional sources, such as legislative history.
- Take notes on the cases and articles you read and highlight important portions you may want to incorporate in your writing. Always indicate page numbers in your notes, as you’ll need them for pincites.
- Keep track of sources. One way is to keep a Master Source List for yourself, writing down sources you want to check out and crossing them off as you go.

- Keep track of the latest developments, such as by setting up a Westlaw KeyCite Alert on your case or a Google Alert on your issue.

### Structuring Your Comment

A typical Comment includes three Parts, each with a distinct purpose, as well as a very brief Introduction and Conclusion. Your Comment does not need to follow this three-part structure; it is presented here as a useful guide. If you do choose to deviate from the below structure, it is important to maintain an analysis which flows logically and to provide clear direction for your reader throughout the Comment.

- **Introduction:** Your Introduction should be brief and extremely succinct—no more than a couple of paragraphs. It should catch the reader’s attention, provide essential background information, briefly state the problem, and explain the problem’s significance. The final sentence of the Introduction—the most important sentence of the Comment—should explain the focus of the Comment’s analysis. For a case Comment, this sentence may begin: “This Comment argues that the recent decision in . . . .”
- **Part I:** Part I introduces the case (or recent legal development) that is the focus of your Comment. Authors should try not to make any arguments in Part I, but rather describe the case or development impartially in a brief and descriptive manner.
- **Part II:** Part II describes in detail the problem or issue presented by the new decision or development. For example, it might describe a new circuit split and the resulting confusion; critique the court’s reasoning if it appears internally inconsistent with other parts of the same opinion; question the court’s reasoning while agreeing with the outcome; approve of the court’s reasoning while disagreeing with its application to the facts; detail a bad policy result; explain a policy consideration the court failed to consider; discuss why a particular result is contrary to the text of a statute; or describe why a particular result is contrary to legislative intent. This should be the longest part of your Comment, as much as half of its length.
- **Part III:** Part III presents a realistic solution to the issue presented in Part II. In Part III, you may argue in favor of a grant of a petition for writ of certiorari, for new or further congressional action, or for a narrow or broad reading of the decision in future cases, among other solutions. Your solution need not be particularly detailed, but you should note how the particular type of action is best suited to the issue raised. In most cases, this will be the shortest of your three Parts.
- **Conclusion:** Your Conclusion should be short and sweet, generally a single paragraph. Minimize footnotes and leave out internal cross-references to earlier discussion in your Comment (“see supra” cites).

### Authority and Sourcing

Almost every textual sentence in your Comment should be substantiated by an appropriate source below the line. However, your below-the-line text should not *merely* support your above-the-line text; rather, you should strive in your footnoting to address all relevant sources, using, where relevant, introductory signals such as “cf.” and “but see.” By referring to your footnotes, a reader should be able to assemble whatever significant scholarship exists on the issue implicated by your Comment. Because footnotes are so heavily relied upon by readers and tend to reflect the depth of an author’s research, the Notes Committee considers an author’s use of footnotes to be an

important factor in evaluating the quality of a Comment.

As a result, a rough guide is that your Comment should have about as many words of above-the-line text as below-the-line text. If the below-the-line text is substantially longer, this may indicate that you have failed to focus the Comment, make the argument in the text, or eliminate minimally useful material. If the above-the-line text is substantially longer, this may indicate that your arguments need further support. A Comment need not have a precise 1:1 ratio of text above and below the line, but this ratio can serve as a guide to ensure that your Comment has sufficient sourcing.

### Other Hallmarks of Great Comment Writing

In addition to having a well-organized structure and strong sourcing, successful Comments will follow each of the below practices.

- **Strong Legal Reasoning:** A good Comment clearly states and defends all premises, rather than relying on implicit assumptions. It recognizes and addresses counterarguments or accepts them as potential weaknesses. It doesn't exclude potential weaknesses in an attempt to prove a point; rather, it acknowledges and addresses them.
- **Roadmaps:** Besides the roadmap in the Introduction, which should succinctly overview what each Part in your Comment will do, each Part should be roadmapped in an introductory paragraph at the beginning of that Part. While extremely important, these roadmaps needn't be long. Short, precise roadmaps help make your Comment readable.
- **Sections and Subsections:** Only use sections and subsections when necessary. Again, Comments are short, and lots of sections and subsections waste valuable space and are an indication that the material is too large in scope for a Comment.
- **Headings:** The headings of your Parts should substantively contribute to your Comment. That is, they should not be so general that they could fit any piece, such as by simply listing "Background" or "Argument."
- **Clarity:** Every sentence of your Comment should be clear and easy to understand to an educated layperson. Aim to use vocabulary efficiently and avoid unwieldy, nonsensical, or jargon-filled sentences.
- **Tone:** A good Comment will maintain an appropriate tone that shows proper deference to legal authority discussed.

The *Review's* Notes Committee evaluates Comments on eight criteria: (1) Issue Relevance, (2) Legal Reasoning, (3) Organization, (4) Clarity and Style, (5) Grammar and Mechanics, (6) Bluebooking, (7) Sourcing, and (8) Overall Effectiveness.

### Avoiding Preemption

The *Review* seeks to publish Comments that will be current and relevant. Conversely, the *Review* does not want to publish a piece that merely reiterates already published legal scholarship. As a result, **the *Review* does not publish preempted Comments.**

Your Comment is preempted if it analyzes a legal problem that has been thoroughly analyzed elsewhere or if subsequent events have rendered the legal problem irrelevant. Below are some common examples of preemption:

- If your Comment analyzes a circuit split and the Supreme Court issues a decision to resolve

the split, your Comment has almost certainly been preempted. This is because the issue raised by the new decision is no longer live.

- If your Comment analyzes a statute that Congress substantially amends, your Comment has almost certainly been preempted. This is because a court's problematic interpretation is irrelevant if the statute is no longer in force.
- If another law student publishes a Comment or Note that analyzes the same issue raised by the same case, your Comment has almost certainly been preempted. A Comment could also be preempted by an Article or Essay written by a professor.

You should keep an eye out for preemption at all stages of your research and writing: While choosing a topic; conducting research; writing your Comment; and if selected for publication, editing your Comment. If you find in the middle or even at the end of writing a Comment that it has been preempted, you can still submit it after revisiting your premises, adding nuance to your argument, or going further in your research or analysis than the preempting material.

To demonstrate to the Notes Committee that your Comment is novel and unique, the *Review* asks that you complete a preemption check alongside your Comment submission. Checking for preemption entails a meticulous survey of the pertinent legal or specialized literature to determine whether someone else has already written about your Comment. For this preemption check, each Comment author is required to provide an overview of the related scholarly literature on five different databases, as well as note their Comment's unique contribution to legal scholarship.

A template of the *Review's* preemption check is attached to this document (see Appendix A).

## IV. SUBMISSION GUIDELINES

### Formatting Instructions

Typically, Comments are around fifteen double-spaced pages when they are published. At the submission stage, the *Review* may select pieces which are slightly longer, but is unlikely to publish a submission exceeding twenty-five pages. All things being equal, a shorter Comment is a stronger Comment.

Your above-the-line text must be in 12-point, double-spaced, Times New Roman font. Footnoted text must be in 11-point, single-spaced, Times New Roman font.

Use the “cross-reference” feature in Word when making references to text within your Comment (“supra” or “infra” references). This way, if you move things around, you can easily update these internal cross-references.

For citations, please follow the *Bluebook*. You should also consult the *CLR Style Guide* (see Appendix B) to help you adhere to certain stylistic preferences held by the *Review*.

### Anonymous Review Process

The *Review* uses an anonymous review process for student-authored works. That is, the Notes Committee does not know the identity of any author whose piece it considers for publication. Any member of the Notes Committee who knows the identity of a Comment’s author will recuse themselves from deliberations and will not vote on that Comment. This policy ensures that selections are conducted objectively and fairly. To this end, Comment authors should refrain from discussing their Comments with any CLS student on the *Review*’s Notes Committee: Tashayla Borden, Sabriyya Pate, Mark Scaggs, Natalie Smith, and Jake Stuebner.

Further, requests regarding a particular author’s Comment should be directed to [comments@columbialawreview.org](mailto:comments@columbialawreview.org). Staff of the *Review* will redact identifying information before communicating with the Notes Committee. However, general questions, comments, and concerns about the Comments Program may be directed to Tashayla Borden, Executive Notes Editor, at [ene@columbialawreview.org](mailto:ene@columbialawreview.org).

### Submission Instructions

To submit your Comment for consideration by the *Review*’s Notes Committee, please email a **cover letter** detailing the extent to which you received assistance or edits. The cover letter may also include what this work means to you personally and why you chose to write about this topic. Please also email a **final draft of your piece, along with an up-to-date preemption check**.

Combine all three files as a single Word document to [comments@columbialawreview.org](mailto:comments@columbialawreview.org). **The Comment file should be devoid of any identifying information** (name, UNI, school information, etc.), so that the Notes Committee may consider it pursuant to its anonymous review process.

The *Review* will accept submissions on a rolling basis until **May 28, 2024, at noon** or until we hit capacity. The Committee plans to notify all Comment authors of its publication decisions by late-June or early-July with production for selected Comments to begin in the following weeks.

## V. CONCLUSION

If you have any questions, comments, or concerns, please don't hesitate to email Tashayla Borden, Executive Notes Editor, at [ene@columbialawreview.org](mailto:ene@columbialawreview.org). Thank you for participating in the Review's Comments Program, and we look forward to reading your Comments!

The *Columbia Law Review* Notes Committee

## APPENDIX A: Preemption Check

### PREEMPTION CHECK

[Date]

#### *Westlaw Search Results*

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##### *[Search Criteria]—[#] Results—[#] Relevant Results*

[Explanation of Search Criteria].

[Relevant Result #1]. [Explanation of result and why it does not preempt your Comment].

[Relevant Result #2]. [Explanation of result and why it does not preempt your Comment].

[Relevant Result #3]. [Explanation of result and why it does not preempt your Comment].

##### *[Search Criteria]—[#] Results—[#] Relevant Results*

[Explanation of Search Criteria].

[Relevant Result #1]. [Explanation of result and why it does not preempt your Comment].

[Relevant Result #2]. [Explanation of result and why it does not preempt your Comment].

[Relevant Result #3]. [Explanation of result and why it does not preempt your Comment].

##### *[Search Criteria]—[#] Results—[#] Relevant Results*

[Explanation of Search Criteria].

[Relevant Result #1]. [Explanation of result and why it does not preempt your Comment].

[Relevant Result #2]. [Explanation of result and why it does not preempt your Comment].

[Relevant Result #3]. [Explanation of result and why it does not preempt your Comment].

#### *Lexis Search Results*

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##### *[Search Criteria]—[#] Results—[#] Relevant Results*

[Explanation of Search Criteria].

[Relevant Result #1]. [Explanation of result and why it does not preempt your Comment].

[Relevant Result #2]. [Explanation of result and why it does not preempt your Comment].

[Relevant Result #3]. [Explanation of result and why it does not preempt your Comment].

##### *[Search Criteria]—[#] Results—[#] Relevant Results*

[Explanation of Search Criteria].

[Relevant Result #1]. [Explanation of result and why it does not preempt your Comment].

[Relevant Result #2]. [Explanation of result and why it does not preempt your Comment].

[Relevant Result #3]. [Explanation of result and why it does not preempt your Comment].

##### *[Search Criteria]—[#] Results—[#] Relevant Results*

[Explanation of Search Criteria].

[**Relevant Result #1**]. [Explanation of result and why it does not preempt your Comment].

[**Relevant Result #2**]. [Explanation of result and why it does not preempt your Comment].

[**Relevant Result #3**]. [Explanation of result and why it does not preempt your Comment].

### ***Google Search Results***

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#### ***[Search Criteria]—[#] Results—[#] Relevant Results***

[Explanation of Search Criteria].

[**Relevant Result #1**]. [Explanation of result and why it does not preempt your Comment].

[**Relevant Result #2**]. [Explanation of result and why it does not preempt your Comment].

[**Relevant Result #3**]. [Explanation of result and why it does not preempt your Comment].

### ***Google Scholar Search Results***

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#### ***[Search Criteria]—[#] Results—[#] Relevant Results***

[Explanation of Search Criteria].

[**Relevant Result #1**]. [Explanation of result and why it does not preempt your Comment].

[**Relevant Result #2**]. [Explanation of result and why it does not preempt your Comment].

[**Relevant Result #3**]. [Explanation of result and why it does not preempt your Comment].

#### ***[Search Criteria]—[#] Results—[#] Relevant Results***

[Explanation of Search Criteria].

[**Relevant Result #1**]. [Explanation of result and why it does not preempt your Comment].

[**Relevant Result #2**]. [Explanation of result and why it does not preempt your Comment].

[**Relevant Result #3**]. [Explanation of result and why it does not preempt your Comment].

#### ***[Search Criteria]—[#] Results—[#] Relevant Results***

[Explanation of Search Criteria].

[**Relevant Result #1**]. [Explanation of result and why it does not preempt your Comment].

[**Relevant Result #2**]. [Explanation of result and why it does not preempt your Comment].

[**Relevant Result #3**]. [Explanation of result and why it does not preempt your Comment].

### ***SSRN Search Results***

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#### ***[Search Criteria]—[#] Results—[#] Relevant Results***

[Explanation of Search Criteria].

[**Relevant Result #1**]. [Explanation of result and why it does not preempt your Comment].

[**Relevant Result #2**]. [Explanation of result and why it does not preempt your Comment].

**[Relevant Result #3].** [Explanation of result and why it does not preempt your Comment].

***[Search Criteria]—[#] Results—[#] Relevant Results***

[Explanation of Search Criteria].

**[Relevant Result #1].** [Explanation of result and why it does not preempt your Comment].

**[Relevant Result #2].** [Explanation of result and why it does not preempt your Comment].

**[Relevant Result #3].** [Explanation of result and why it does not preempt your Comment].

***[Search Criteria]—[#] Results—[#] Relevant Results***

[Explanation of Search Criteria].

**[Relevant Result #1].** [Explanation of result and why it does not preempt your Comment].

**[Relevant Result #2].** [Explanation of result and why it does not preempt your Comment].

**[Relevant Result #3].** [Explanation of result and why it does not preempt your Comment].

***Unique Contribution***

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[Summary of the Comment's unique contribution to academic literature].

## APPENDIX B: *CLR Style Guide*

The *Columbia Law Review* generally adheres to the rules of the *Bluebook* and the *Chicago Manual of Style*. The *Review* believes that substantiation, through the use of pincites and explanatory parentheticals, is essential to strong legal writing.

- **Substantiation:** The *Review* requires that all factual propositions have appropriate substantiation. In practice, this means that almost every statement in a piece—including general background information—requires a corresponding below-the-line citation to a reputable source. Of course, when an author advances a novel argument, that proposition may not require substantiation.
- **Pincites:** When a source is paginated, the *Review* requires a pinpoint citation or “pincite.” An author may omit a pincite *only* when (1) the entire source is cited as background material or (2) the source is merely cited to in order to demonstrate its existence.
- **Parentheticals:** In many circumstances, the *Review* requires an explanatory parenthetical to help explain the relevance of a source. As a general rule, if a reasonable reader without expertise in the subject could identify how the source substantiates the above-the-line proposition, a parenthetical is not required. If, however, a reader would be required to make an independent inference to determine how a source substantiates the asserted proposition, a parenthetical must articulate that inference for the reader. In general, it is better to err on the side of too many parentheticals than too few.

Please also take note of the following ways in which the *Review* deviates from the rules of the *Bluebook* and the *Chicago Manual of Style*.

- **Small caps and italicization in footnotes:** The *Review* breaks with *Bluebook* style by generally not using small caps or italicization in citations. This applies to all citations, including full case citations and citations to journal articles, online articles, and books. Case titles, however, are italicized in short citations to that case.
- **First person:** To maintain the formal style of law review articles, the *Review* strongly disfavors the use of first person.
- **Gendered language:** The *Review* prefers the use of gender-neutral language whenever possible. When it is not possible to avoid gendered language, the *Review* prefers to use feminine pronouns.
- **Hyphenation:** While the *Chicago Manual of Style* provides a good overview of hyphenation rules,<sup>3</sup> the *Review* adheres to the below rules in particular:
  - Phrasal adjectives, which are two or more consecutive words that make sense only when understood together as an adjective modifying a noun, should be hyphenated (e.g., “colonial-style house” as opposed to “colonial style house”).
  - Common prefixes are generally not hyphenated (e.g., “presubmission” as opposed to “pre-submission”).
  - Phrases that begin with an –ly adverb are generally not hyphenated (e.g., “a freely given confession” as opposed to “a freely-given confession”).
- **Unpublished Sources:** The *Review* retains copies of all cited unpublished sources, such as an interview between the author and someone else. An unpublished source must be noted

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<sup>3</sup> The *Chicago Manual of Style*'s guidelines can be found here:  
[http://www.chicagomanualofstyle.org/16/images/ch07\\_tab01.pdf](http://www.chicagomanualofstyle.org/16/images/ch07_tab01.pdf).

with an “on file with the *Columbia Law Review*” parenthetical. If selected for publication, the *Review* will ask a Comment’s author to provide the *Review* with electronic copies of all such sources.