FOREWORD

Like other issues of the *University of Colorado Law Review*, this issue represents the culmination of seven authors' extensive study and research. Nonetheless, this issue, the first of Volume 80, is noteworthy in that the tireless efforts of these authors continued until mere moments before this issue went to press. The explanation is simple. Each article herein addresses a pressing and, in several cases, still-developing area of legal scholarship. Spanning an array of topics from the collapse of the subprime mortgage market to mandated health benefits to domestic greenhouse gas trading schemes, these scholarly articles will contribute to the present socio-political landscape and continue to reverberate in the days and years that lay ahead.

In *The Law and Economics of Subprime Lending*, Todd J. Zywicki & Joseph D. Adamson discuss the collapse of the subprime mortgage market. The authors weigh the benefits of greater regulation against the benefits of increased homeownership made possible by subprime lending, determining that sensible regulation of subprime lending should seek to curb abusive practices while preserving these benefits. The authors conclude by discussing the causes of rising foreclosures in an attempt to create a model that can be used to sensibly and effectively establish policies responsive to the collapse.

Richard A. Bales & Jamie L. Ireland, authors of *Federal Question Jurisdiction and the Federal Arbitration Act*, attempt to reduce the challenges heaped upon parties who seek to enforce an arbitration agreement pursuant to the Federal Arbitration Act by urging federal courts to hear cases despite the fact that the Act does not expressly provide a jurisdictional hook. The authors argue that federal courts must "look-through" the enforcement action and grant jurisdiction where the underlying dispute involves a federal question. The authors examine and ultimately reject the arguments frequently made against this "look-through" approach, relying on the Supreme Court's policy favoring arbitration, which is evident in the Court's decisions over the last two decades.

In her article, *Value-Based Mandated Health Benefits*, Amy B. Monahan revisits the underlying rationales used to justify mandated health benefit law, including: market failure that leads to non-availability of coverage, suboptimal utiliza-

tion of a medical treatment or service, undesired insurance company coverage determinations, cognitive shortcuts and biases, and failures in the group market. Professor Monahan argues that these rationales cannot support mandated coverage unless a clear cost-benefit or cost-efficiency exists as compared to non-coverage or a viable justice claim supporting the mandate can be made out. Via a series of case studies, Professor Monahan demonstrates that value-based mandates that take into account the precise justification for their existence advance important policy goals even as they increase overall efficiency.

The first student comment here presented, *The Solitary Attempt: International Trade Law and the Insulation of Domestic Greenhouse Gas Trading Schemes from Foreign Emissions Credit Markets*, examines the influence of international trade agreements on a hypothetical domestically-scaled cap-and-trade scheme to reduce greenhouse gas emissions in the United States. Elias Leake Quinn identifies those portions of the scheme most likely to be affected by international trade agreements, examines the conflicts created, and concludes that these challenges may well undercut the United States' ability to pursue regulatory goals distinct from the rest of the world. Consequently, Quinn argues, development of domestic policies must coincide with international emissions reduction goals and agreements on the treatment of emissions credits under international trade regimes.

In his comment, *Independent Investigations: An Inequitable Out for Employers in Cat's Paw Cases*, Sean Ratliff attempts to determine the extent to which judges should be allowed to grant summary judgment for employers who conduct "independent investigations" in cat's paw employment cases. Whether the independence of an employer's investigation is a question of law or fact varies from circuit to circuit. Ultimately, Ratliff proposes a resolution to this circuit split, asserting that the question should be one of fact and that judges should be prohibited from granting summary judgment based on the independent investigation defense.

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