

Law & Social Inquiry

Journal of the American Bar Foundation
Volume 21, Number 3, Summer 1996

The University of Chicago Press

Law & Social Inquiry

Journal of the American Bar Foundation

Published by The University of Chicago Press

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American Bar Foundation
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Chicago, IL 60611
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Single copies: \$14.75 for institutions, \$9.00 for individuals. Checks should be made payable to *Law & Social Inquiry*, University of Chicago Press, Journals Division, P.O. Box 37005, Chicago, Illinois 60637. (Fax: 312-753-0811; E-mail: subscriptions@journals.uchicago.edu) Volumes 1-12 available from Fred B. Rothman & Company, 10368 West Centennial Road, Littleton, Colorado 80127. (303) 979-5657

Volumes available in microfilm from University Microfilms International, 300 North Zeeb Road, Ann Arbor, Michigan 48106.

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Law and Social Inquiry: Journal of the American Bar Foundation (ISSN: 0897-6546) is published quarterly—winter, spring, summer, and fall—by The University of Chicago Press, 5720 South Woodlawn Ave., Chicago, Illinois 60637. Subscription agent for Japan: Kinokuniya Company, Ltd. Periodicals postage paid at Chicago, Illinois and at additional mailing office.

POSTMASTER: Send address changes to: *Law and Social Inquiry*, P.O. Box 37005, Chicago, IL 60637.

Law and Social Inquiry Graduate Student Paper Competition

The editors of *Law and Social Inquiry* are pleased to announce a competition for the best journal-length paper in the field of sociolegal studies written by a graduate student. The winning paper will be published in *Law and Social Inquiry*, and the author will receive a cash prize of \$500. Submissions will be judged by the editorial board, and the winning submission will be internally reviewed for publication. The author must be a graduate student or law student at the time of submission. Entries should be received by March 1, 1997. The winner will be announced by May 1. *Law and Social Inquiry* publishes both empirical and theoretical studies of sociolegal processes from a variety of disciplinary perspectives.

Please send your best work to:

The Editors, *Law and Social Inquiry*, American Bar Foundation,
750 N. Lake Shore Drive, Chicago, IL 60611. For further information send e-mail to lsi-abf@nwu.edu or call (312) 988-6559.

Business Disputing Symposium

In this symposium issue, *Law & Social Inquiry* is proud to present cutting-edge empirical research on the use of law by businesses. The set of four new studies in this symposium were originally presented at a conference on "Changing Patterns of Business Disputing" at the University of Wisconsin-Madison's Institute for Legal Studies, long an acknowledged leader in this area of sociolegal research. It is only through work of this kind that the legal world can come to an accurate understanding of the current state of business law "on the ground."

In their article, "Corporations in Court: Big Business Litigation in U.S. Federal Courts, 1971-1991," Terence Dunworth and Joel Rogers analyze over 456,300 district court cases in which large businesses appeared as a party from 1971 through 1991. These large businesses included the 2,300 firms that had been listed as among the "top 500" U.S. corporations over that twenty-year period. In a result that may surprise those who have read of a "litigation explosion" during that time, Dunworth and Rogers find that the aggregate volume of business litigation is actually declining. In some areas in which business litigation has been growing, it is businesses themselves that have created this growth, and big business seems to win overwhelmingly in these areas.

A study of dispute resolution in the U.S. auto industry over a similar time period yields somewhat parallel results. The conclusions of this study are reported in an article by Lane Kenworthy, Stewart Macaulay, and Joel Rogers entitled "The More Things Change. . .: Business Litigation and Governance in the American Automobile Industry." Although there had been an upward trend in intercorporate litigation since the 1970s, some of the authors' measures indicate a decline in litigation beginning in the mid-to late 1980s. The article connects these shifts with changes in competition and instability in the industry, as well as with industry efforts to develop nonlitigious means of resolving disputes.

Thirty-three years after Stewart Macaulay's landmark study of the use of contract law by Wisconsin manufacturers, John Esser offers a fascinating re-study in his article "Institutionalizing Industry: The Changing Forms of Contract." Esser tracks through history the changing connections among forms of production, kinds of contracts, and contract theories. Thus, he finds that there is a connection between older job shop production, discrete (short-term) contracts, and classical theories of contract. By contrast, his study documents an increasing shift in current times to the use of long-term ("relational") contracts, which appears to be connected with flexible production and modern relational theories of contract.

Finally, in "The Hired Gun as Facilitator: Lawyers and the Suppression of Business Disputes in Silicon Valley," Mark Suchman and Mia Cahill examine the role of business attorneys in the development of the market for high-technology start-up financing. Here law plays a facilitative role, with attorneys serving as translators of the local business community's distinctive practices and norms not only within the community and at its boundaries, but also "in the local and national legal discourse, through standardized trade practices, professional formbooks, judicial doctrines, and administrative regulations." In the process, lawyers help to promote business and minimize uncertainty for their clients.

LSI is pleased to bring you the latest crop of empirical studies on business law; we thank Arthur McEvoy (University of Wisconsin-Madison) and Christopher Tomlins (ABF) for their joint efforts to bring this issue to fruition.

—CAROL A. HEIMER AND ELIZABETH MERTZ