

**National University of Ireland, Maynooth**

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**From the Selected Works of Seth Barrett Tillman**

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# Citations by Practitioners in Legal Briefs and Agency Filings, and Other Practitioner-Authored Publications

Seth Barrett Tillman



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**CITATIONS BY PRACTITIONERS IN LEGAL BRIEFS AND AGENCY FILINGS**

<b>JURISDICTION</b>	<b># OF FILINGS</b>	<b>AGENCY</b>	<b>YEAR</b>
Ireland	2	Dep't of Environ., Community and Local Gov't	2014

<b>JURISDICTION</b>	<b># OF FILINGS</b>	<b>COURTS</b>	<b># OF COURTS</b>
United States	1	US Supreme Court	1
Arizona	2	Trial Court	1
Delaware	8	Chancery [7] & Supreme Court [1]	2
Indiana	1	Intermediate Court of Appeals	1
<b>Total</b>	<b>12</b>	<b>Total</b>	<b>5</b>

**TYPE OF COURT NUMBER OF FILINGS**

Trial Court	9	(Ariz. [2], Del. [7])
Intermediate	1	(Ind.)
Supreme Court	2	(US, Del.)
<b>Total</b>	<b>12</b>	

**YEAR NUMBER OF FILINGS**

2014	2	(Irish agency filings)
2013	2	
2012	2	
2011	2	
2010	1	
2009	1	(amicus brief by U.S. law professors)
2008	4	
<b>Total</b>	<b>14</b>	

**YEAR NUMBER OF CITATIONS**

2014	4	(4 citations across 2 Irish agency filings)
2013	2	
2012	2	
2011	2	
2010	1	
2009	1	(amicus brief by U.S. law professors)
2008	4	
<b>Total</b>	<b>16</b>	

**CITATIONS IN LEGAL BRIEFS AND SUBMISSIONS BY PRACTITIONERS**

**2014**

The Environmental NGO Partners to the Environmental Law Implementation Group–Aarhus Submission 31 n.43, 37 (Sept. 26, 2014) (citing Tillman’s *Irish Times* opinion editorial, and Tillman’s *Irish Independent* opinion editorial) (consultation submission to the Department of Environment, Community and Local Government), *available at* <http://www.environ.ie/en/Environment/AarhusConvention/PublicConsultation/SubmissionsReceived/FileDownload,39283,en.pdf>, *also available at* [http://works.bepress.com/seth\\_barrett\\_tillman/551](http://works.bepress.com/seth_barrett_tillman/551).

Environmental Pillar Submission to the Public Consultation on Access to Justice and Implementation of Article 9 of the Aarhus Convention 17 & n.14, 38 (Sept. 26, 2014) (citing Tillman’s *Irish Times* opinion editorial, and Tillman’s *Irish Independent* opinion editorial) (consultation submission to the Department of Environment, Community and Local Government), *available at* <http://www.environ.ie/en/Environment/AarhusConvention/PublicConsultation/SubmissionsReceived/FileDownload,39252,en.pdf>, *also available at* [http://works.bepress.com/seth\\_barrett\\_tillman/550/](http://works.bepress.com/seth_barrett_tillman/550/).

**2013**

Appellees’ Corrected Answering Brief, *Klaassen v. Allegro Development Corporation*, Case No. 583-2013 (Del., Dec. 5, 2013) (citing C. Stephen Bigler & Seth Barrett Tillman, *Void or Voidable? -- Curing Defects in Stock Issuances Under Delaware Law*, 63 BUS. LAW. 1109 (2008)) (filed by Potter Anderson & Corroon LLP et al.), Filing ID 54656293, 2013 WL 6709992, at \*22, 2013 DE S. Ct. Briefs 583, at \*22, *available at* [http://works.bepress.com/seth\\_barrett\\_tillman/435/](http://works.bepress.com/seth_barrett_tillman/435/), *also available at* <http://courts.delaware.gov/supreme/oralarguments/download.aspx?id=190>.

Appellant’s Brief, *Mains v. Citibank, NA as Trustee for Wamu Series 2007-HE2 Trust*, Case No. 10A04-1309-MF-450 (Ind. Ct. App., Dec. 23, 2013) (citing C. Stephen Bigler & Seth Barrett Tillman, *Void or Voidable? -- Curing Defects in Stock Issuances Under Delaware Law*, 63 BUS. LAW. 1109 (2008)) (filed by Smith Carpenter Fondrissi, & Cummins, LLC), 2013 WL 7389869, at \*1, \*22-\*23, *available at* [http://works.bepress.com/seth\\_barrett\\_tillman/461/](http://works.bepress.com/seth_barrett_tillman/461/).

**2012**

Plaintiffs' Response to Defendants' Separate Statement of Facts in Support of Their Motion for Summary Judgment, *Avent v. Paragon Gaming, LLC*, No. CV2010017742 (Ariz. Super. Ct., Sept. 28, 2012) (Anderson, J.) (citing C. Stephen Bigler & Seth Barrett Tillman, *Void or Voidable? -- Curing Defects in Stock Issuances Under Delaware Law*, 63 BUS. LAW. 1109 (2008)), 2012 WL 8170810, ¶¶ 51 & 112, 2012 AZ Sup. Ct. Motions LEXIS 10, available at [http://works.bepress.com/seth\\_barrett\\_tillman/399/](http://works.bepress.com/seth_barrett_tillman/399/).

Plaintiffs' Motion for Partial Summary Judgment, *Avent v. Paragon Gaming, LLC*, No. CV2010017742 (Ariz. Super. Ct., Aug. 29, 2012) (Anderson, J.) (citing C. Stephen Bigler & Seth Barrett Tillman, *Void or Voidable? -- Curing Defects in Stock Issuances Under Delaware Law*, 63 BUS. LAW. 1109 (2008)), 2012 WL 8170773, § III[A], 2012 AZ Sup. Ct. Motions LEXIS 1, available at [http://works.bepress.com/seth\\_barrett\\_tillman/398/](http://works.bepress.com/seth_barrett_tillman/398/).

**2011**

Plaintiffs' Reply Brief in Support of Their Motion for Partial Summary Judgment, *Kevin Shahbazi v. TD Security, LLC*, No. 5628-VCL (Del. Ch. Jan. 26, 2011) (citing C. Stephen Bigler & Seth Barrett Tillman, *Void or Voidable? -- Curing Defects in Stock Issuances Under Delaware Law*, 63 BUS. LAW. 1109 (2008)) (filed by Prickett, Jones & Elliott, P.A.), Dkt. No. 126, 2011 WL 283258, at \*35, 2011 DE Ch. Ct. Motions LEXIS 2, at \*64, available at [http://works.bepress.com/seth\\_barrett\\_tillman/215/](http://works.bepress.com/seth_barrett_tillman/215/).

Defendant McAfee's Opposition Brief to Plaintiffs' Motion for Partial Summary Judgment at 26, 28, *Kevin Shahbazi v. TD Security, LLC*, No. 5628-VCL (Del. Ch. Jan. 7, 2011) (citing C. Stephen Bigler & Seth Barrett Tillman, *Void or Voidable? -- Curing Defects in Stock Issuances Under Delaware Law*, 63 BUS. LAW. 1109 (2008)) (filed by Morris, Nichols, Arsht & Tunnell LLP) (formerly under seal), Dkt. No. 90, 2011 WL 590871, 2011 DE Ch. Ct. Motions LEXIS 3, at \*44, \*48, available at [http://works.bepress.com/seth\\_barrett\\_tillman/216/](http://works.bepress.com/seth_barrett_tillman/216/).

**2010**

Defendants' Joint Answering Post-Trial Brief at 12 n.6, *Blades v. Wisehart*, No. 5317-VCS (Del. Ch. July 1, 2010) (citing C. Stephen Bigler & Seth Barrett Tillman, *Void or Voidable? -- Curing Defects in Stock Issuances Under Delaware Law*, 63 BUS. LAW. 1109 (2008)) (filed by Pinckney, Harris & Weidinger, LLC), Dkt. No. 226, 2010 WL 2678652, 2010 DE Ch. Ct. Briefs LEXIS 10, at \*21 n.6, *available at* [http://works.bepress.com/seth\\_barrett\\_tillman/169/](http://works.bepress.com/seth_barrett_tillman/169/).

**2009**

Brief of Law Professors as Amici Curiae in Support of Petitioners at 14 n.6, *Free Enter. Fund v. Pub. Co. Accounting Oversight Bd.*, 130 S. Ct. 3138 (Aug. 3, 2009) (No. 08-861), 2009 WL 2372919, at \*14 n.6, 2009 U.S. S. Ct. Briefs LEXIS 661, at \*25 n.6, *available at* [http://works.bepress.com/seth\\_barrett\\_tillman/134/](http://works.bepress.com/seth_barrett_tillman/134/) (submitted by U.S. law professors, not full-time practitioners).

**2008**

Plaintiffs' Reply in Support of their Motion for Default Judgment, Motion for Judgment on the Pleadings and Motion for Attorneys' Fees and Costs at 12, *Noe v. Kropf* (Del. Ch. Dec. 9, 2008) (No. 4050-CC) (citing C. Stephen Bigler & Seth Barrett Tillman, *Void or Voidable? -- Curing Defects in Stock Issuances Under Delaware Law*, 63 BUS. LAW. 1109 (2008)) (filed by Greenberg Traurig, LLP), 2008 WL 5202998, 2008 DE Ch. Ct. Motions LEXIS 36, at \*18, *available at* [http://works.bepress.com/seth\\_barrett\\_tillman/107/](http://works.bepress.com/seth_barrett_tillman/107/).

Intervenor Turnaround Advisors LLC's (1) Opposition to Plaintiffs' Motion for Default Judgment, Motion for Judgment in the Pleadings and Motion for Attorneys' Fees and Costs; and (2) Opening Brief in Support of its Motion for Attorneys' Fees and Costs at 14 nn.42, 45 & 47, 16 n.55, 18 nn.65 & 67, 19 nn.69-72, *Noe v. Kropf* (Del. Ch. Dec. 4, 2008) (No. 4050-CC) (citing C. Stephen Bigler & Seth Barrett Tillman, *Void or Voidable? -- Curing Defects in Stock Issuances Under Delaware Law*, 63 BUS. LAW. 1109 (2008)) (filed by Fish & Richardson P.C.), 2008 WL 5196082, 2008 DE Ch. Ct. Motions LEXIS 35 *passim*, *available at* [http://works.bepress.com/seth\\_barrett\\_tillman/106/](http://works.bepress.com/seth_barrett_tillman/106/).

**2008 (cont.)**

Plaintiffs' Motion for Default Judgment, Motion for Judgment on the Pleadings, and Motion for Attorneys' Fees and Costs at 14, *Noe v. Kropf* (Del. Ch. Nov. 12, 2008) (No. 4050-CC) (citing C. Stephen Bigler & Seth Barrett Tillman, *Void or Voidable? -- Curing Defects in Stock Issuances Under Delaware Law*, 63 BUS. LAW. 1109 (2008)) (filed by Greenberg Traurig, LLP), 2008 WL 4903893, 2008 DE Ch. Ct. Motions LEXIS 34, at \*22, available at [http://works.bepress.com/seth\\_barrett\\_tillman/97/](http://works.bepress.com/seth_barrett_tillman/97/).

Turnaround Advisors, LLC's Reply Brief in Support of its Combined Motion to Intervene and to Vacate Order to Expedite Proceedings *passim*, *Noe v. Kropf*, 2008 WL 4603577, 2008 Del. Ch. LEXIS 148 (Del. Ch. Oct. 3, 2008) (No. 4050-CC) (citing C. Stephen Bigler & Seth Barrett Tillman, *Void or Voidable? -- Curing Defects in Stock Issuances Under Delaware Law*, 63 BUS. LAW. 1109 (2008)) (filed by Fish & Richardson P.C.), 2008 WL 4532882, 2008 DE Ch. Ct. Motions LEXIS 30 *passim*, available at [http://works.bepress.com/seth\\_barrett\\_tillman/90/](http://works.bepress.com/seth_barrett_tillman/90/).

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**PRACTITIONER-AUTHORED PUBLICATIONS (OTHER THAN COURT FILINGS)**

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11 JOY MARLENE BRYAN & SIMON M LORNE, ACQUISITIONS AND MERGERS: NEGOTIATED AND CONTESTED TRANSACTIONS § 3:64.76, at 3-364.2 to 3-364.2.42 (2010) (available on Westlaw).

NICK DRANIAS, GOLDWATER INSTITUTE POLICY REPORT, FEDERALISM DO-IT-YOURSELF 72 n.456 (2011), *available at* [http://works.bepress.com/seth\\_barrett\\_tillman/268/](http://works.bepress.com/seth_barrett_tillman/268/).

NICK DRANIAS, GOLDWATER INSTITUTE POLICY REPORT, THE FEDERALIST TOOLKIT 105 n.451 (2010), *available at* [http://works.bepress.com/seth\\_barrett\\_tillman/214/](http://works.bepress.com/seth_barrett_tillman/214/).

NICK DRANIAS, GOLDWATER INSTITUTE POLICY REPORT, WHAT IS AN INTERSTATE COMPACT 9 n.42 (2011), *available at* [http://works.bepress.com/seth\\_barrett\\_tillman/224/](http://works.bepress.com/seth_barrett_tillman/224/).

NICK DRANIAS, GOLDWATER INSTITUTE POLICY REPORT, THE POWER AND PROMISE OF INTERSTATE COMPACTS 5 n.42 (2010), *available at* [http://works.bepress.com/seth\\_barrett\\_tillman/277/](http://works.bepress.com/seth_barrett_tillman/277/).

1 ARTHUR N. FIELD & JEFFREY M. SMITH, LEGAL OPINIONS IN BUSINESS TRANSACTIONS § 9:4:3 n.63, at 240 n.63 (3d ed. 2014), *available at* [http://works.bepress.com/seth\\_barrett\\_tillman/270/](http://works.bepress.com/seth_barrett_tillman/270/).

DONALD W. GLAZER ET AL., GLAZER AND FITZGIBBON ON LEGAL OPINIONS (3d ed. Cum. Supp. forthcoming circa 2014), *available at* [http://works.bepress.com/seth\\_barrett\\_tillman/480/](http://works.bepress.com/seth_barrett_tillman/480/) (citation personally confirmed by author).

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LEE R. PETILLON & ROBERT JOE HULL, REPRESENTING START-UP COMPANIES § 2:39 (Supp. Oct. 2012), *available at* [http://works.bepress.com/seth\\_barrett\\_tillman/412/](http://works.bepress.com/seth_barrett_tillman/412/).

MARK S. RHODES, TRANSFER OF STOCK § 21:2 n.1 (7th ed. Supp. 2011).

ANTONIN SCALIA & BRYAN A. GARNER, READING LAW: THE INTERPRETATION OF LEGAL TEXTS 113, 504, 563 (2012), *available at* [http://works.bepress.com/seth\\_barrett\\_tillman/329/](http://works.bepress.com/seth_barrett_tillman/329/).

PETER SPILLER, BUTTERWORTH'S NEW ZEALAND LAW DICTIONARY, at v (7th ed. 2011).

Luke Beck, *The Constitutional Prohibition on Religious Tests*, 35 MELBOURNE U. L. REV. 323, 349 n.192 (2011) (peer reviewed).

C. Stephen Bigler & John Mark Zeberkiewicz, *Restoring Equity: Delaware's Legislative Cure for Defects in Stock Issuances and Other Corporate Acts*, 69 BUS. LAW. 393, 393 n.1, 394, 395 n.7, 400 & n.46 (2014) (peer reviewed), *available at* <https://www.rlf.com/Publications/5587>.

Roy E. Brownell II, Part 1, *A Constitutional Chameleon: The Vice President's Place within the American System of Separation of Powers: Text, Structure, Views of the Framers and the Courts*, 24 KAN. J.L. & PUB. POL'Y 1, 1 n.\*, 14 n.61, 36 n.177, 54 n.294 (2014), *available at* [http://works.bepress.com/seth\\_barrett\\_tillman/474/](http://works.bepress.com/seth_barrett_tillman/474/).

Roy E. Brownell II, Part 2, *A Constitutional Chameleon: The Vice President's Place within the American System of Separation of Powers: Political Branch Interpretation and Counterarguments*, 24 KAN. J.L. & PUB. POL'Y 294, 294 n.\*, 301 n.24, 319 n.128, 377 n.512, 379 n.521, 397 n.613 (2015), *available at* [http://works.bepress.com/seth\\_barrett\\_tillman/475/](http://works.bepress.com/seth_barrett_tillman/475/).

Roy E. Brownell II, *When the Chief Justice Serves in the Legislative Branch*, 3 AKRON J. CONST. L. & PUB. POL'Y 31, 31 n.\* (2012).

Roy E. Brownell II, *The Independence of the Vice Presidency*, 17 NYU J. LEG. & PUB. POL'Y 297, 297 n.\*, 308 n.40, 373 n.478 (2014).



Roy E. Brownell II, *Can the President Recess Appoint a Vice President?*, 42 PRESIDENTIAL STUD. Q. 622, 622 n\* & n.1, 625 n.3, 627-28, 635 (2012) (peer reviewed), available at [http://works.bepress.com/seth\\_barrett\\_tillman/241/](http://works.bepress.com/seth_barrett_tillman/241/), also available at <http://tinyurl.com/c9d9k8q/>.

Benjamin Cassady, *“You’ve Got Your Crook, I’ve Got Mine”*: *Why the Disqualification Clause Doesn’t (Always) Disqualify*, 32 QUINNIPIAC L. REV. 209, 211 n.4, 287 n.380 (2014) (Irell & Manella, LLP).

Woody R. Clermont, *Your Lethal Injection Bill: A fight to the death over an expensive yellow jacket*, 24 ST. THOMAS U. L. REV. 248, 248 n.\* (2012).

Zachary D. Clopton & Steven E. Art, *The Meaning of the Seventeenth Amendment and A Century of State Defiance*, 107 NW. U. L. REV. 1181, 1203 n.84 (2013).

Byron F. Egan, *Fiduciary Duties of Corporate Directors and Officers in Texas*, 43 TEX. J. BUS. L. 45, 321 n.918 (2009) (peer reviewed for article selection).

William Josephson, *Senate Election of the Vice President and House of Representatives Election of the President*, 11 U. PA. J. CONST. L. 597, 652 n.210 (2009).

Hon. D. Arthur Kelsey, *The Resurgent Role of Legal History in Modern U.S. Supreme Court Opinions*, VA. BAR ASSO. NEWS J., Fall 2010, at 16 n.11 (2010) (citing Calabresi-Tillman exchange on *PENNumbra*) (practitioners’ journal), available at [http://lextrajectus.com/html/unit\\_1.html](http://lextrajectus.com/html/unit_1.html).

James J. Knicely, *First Principles and the Misplacement of the Wall of Separation: Too Late in the Day for a Cure?*, 52 DRAKE L. REV. 171, 173 n.13 (2004).

James J. Knicely & John W. Whitehead, *In God We Trust: The Judicial Establishment of American Civil Religion*, 43 JOHN MARSHALL L. REV. 869, 883 n.76 (2010).

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John Mark Zeberkiewicz & Tiffany N. Piland, *Valid Issuance of Capital Stock*, 44 REV. SECS. & COMMODITIES REG. 191, 195 n.30 (2011) (practitioner-edited journal).

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Donald W. Glazer, Recent Developments, *Opinions on DGCL Section 204 Stock: A Rose is a Rose is a Rose*, IN OUR OPINION: THE NEWSLETTER OF THE LEGAL OPINIONS COMMITTEE (ABA Business Law Section, Chicago, IL), Spring 2014, at 10, available at <http://tinyurl.com/kknflgf>, also available at [http://works.bepress.com/seth\\_barrett\\_tillman/476/](http://works.bepress.com/seth_barrett_tillman/476/).

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Byron F. Egan, *Fiduciary Duties of Directors and Officers in M&A Transactions*, 8TH ANNUAL M&A NUGGET-PALOOZA 355 n.1178 (Dallas, Tex., Apr. 10, 2012), *available at* <http://images.jw.com/com/publications/1729.pdf>, *also available at* [http://works.bepress.com/seth\\_barrett\\_tillman/446/](http://works.bepress.com/seth_barrett_tillman/446/).

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