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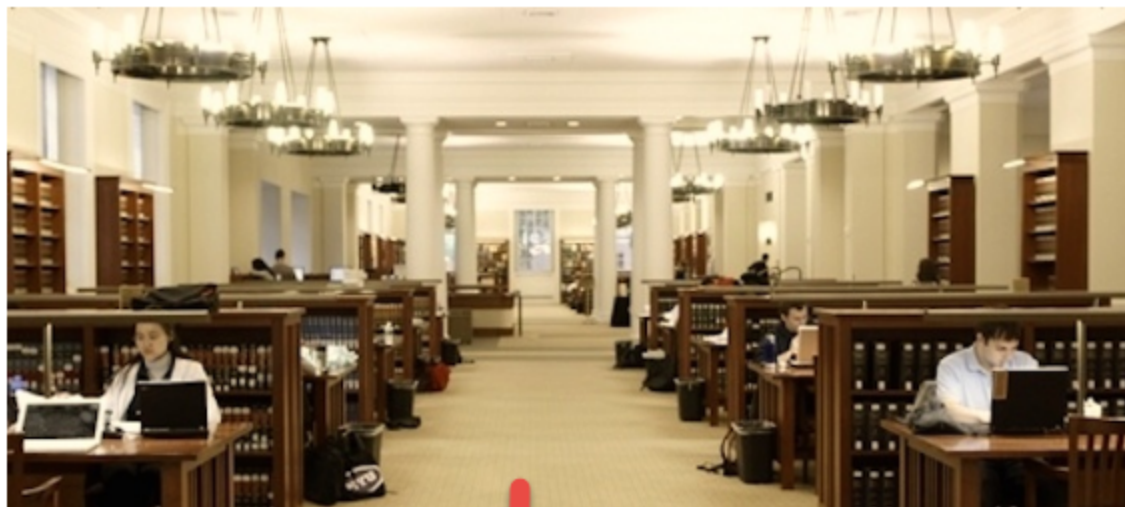
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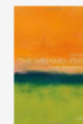
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3. Eleventh Amendment Immunity in Bankruptcy: Breaking the Seminole Tribe Barrier [notes]
New York University Law Review, Vol. 75, Issue 1 (April 2000), pp. 199-241 McKenzie, Troy A. 75 N.Y.U. L. Rev. 199 (2000)
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5. Bankruptcy - Preferential Transfers - Ordinary Course of Business Exception Requires Objective Proof of Industry Standards [notes]
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Washington University Law Review, Vol. 80, Issue 3 (2013), pp. 839-864 McKenzie, Troy A. 80 Wash. U. L. Rev. 839 (2013)

TOWARD A BANKRUPTCY MODEL FOR NONCLASS AGGREGATE LITIGATION

TROY A. MCKENZIE*

In recent years, aggregate litigation has moved in the direction of multidistrict litigation followed by mass settlement without certification of a class action—a form sometimes referred to as the “quasi-class action.” Driven by increased restrictions on class certification, particularly in mass tort cases, the rise of the quasi-class action has been controversial. In particular, critics object that it overempowers lawyers and devalues the consent of individual claimants in the name of achieving “closure” in litigation. This Article presents two claims.

First, the debate about the proper scope and form of aggregate litigation too frequently relies on the class action as the touchstone for legitimacy. References to the class action, however, are more often misleading than helpful. The basic assumptions behind the class action are different in degree and in kind from the reality of

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Amy Adler is the Emily Kempin Professor of Law at NYU School of Law. A leading scholar of art law, Adler specializes in the legal regulation of artistic expression, sexuality, and free speech. Her scholarship focuses on the intersection of law and culture; her work draws on an array of fields, primarily from the arts and humanities, to explore legal questions. Adler has written numerous articles on issues ranging from the moral rights of artists, ... [SHOW MORE](#)

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