

NICHOLAS A. MIRKAY III

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ACADEMIC & TEACHING EXPERIENCE

- **William S. Richardson School of Law, University of Hawai'i at Mānoa**
Associate Dean for Academic Affairs June 2021 to present
Director of Faculty Research August 2018 to June 2021
Carlsmith Ball Faculty Scholar August 2018 to August 2020
Professor of Law August 2017 to present
 - Courses: Federal Income Tax, Trusts & Estates, Nonprofit Organizations, State & Local Tax, Lawyering Fundamentals, Second Year Seminar

- **Creighton University School of Law** Omaha, Nebraska
Senior Associate Dean for Administration & Planning July 2015 to July 2017
Professor of Law January 2012 to July 2017
Visiting Associate Professor of Law August 2011 to July 2012
 - Courses: Federal Income Tax, State & Local Tax, Trusts & Estates, Nonprofit Organizations, Business Associations, Intro to Law
 - Administrative Duties: ABA/AALS Self-Study, Admissions, Assessment, Career Development, Faculty Administration, Graduate Programs (MLS), Partnerships, Strategic Planning

- **Delaware Law School of Widener University** Wilmington, Delaware
Associate Professor of Law (tenured, 2009) July 2003 to July 2012
 - Courses: Federal Income Tax, Nonprofit Organizations, Wills & Trusts, Business Organizations, Introduction to Law

- **Delaware Bar Review** Wilmington, Delaware
Lecturer, Delaware Wills & Trusts 2007 to 2015

LEGAL EXPERIENCE

- **Lewis, Rice & Fingersh, L.C.** St. Louis, Missouri
Member (Partner), Tax Department February 2001 to June 2003
Associate, Tax Department October 1999 to January 2001

- **Thompson Coburn LLP** St. Louis, Missouri
Associate, Tax Practice Group July 1996 to October 1999

- **Internal Revenue Service, Office of Chief Counsel** Washington, D.C.
Attorney, Disclosure Litigation May 1994 to June 1996

- **United States Tax Court, The Honorable Carolyn Miller Parr** Washington, D.C.
Attorney-Advisor August 1992 to April 1994

EDUCATION

- **Georgetown University Law Center**
LL.M. in Taxation, *with distinction*, May 1996

- **University of Missouri School of Law**
Juris Doctor, May 1992
 - Associate Editor-in-Chief, *Missouri Law Review*
 - *Missouri Law Review* Best Production Award (1991)
 - Academic Achievement Award, Pensions & Profit Sharing Seminar

- **Saint Louis University**
B.S. Business Administration, *magna cum laude*, May 1989
Major: Accounting Minor: History (undeclared)
 - Beta Gamma Sigma Business School Honor Society
 - Alpha Sigma Nu Jesuit Honor Society
 - Beta Alpha Psi Accounting Fraternity
 - Pre-Law Scholars Program

DISTINCTIONS, HONORS & AWARDS

- Outstanding Faculty Awards: William S. Richardson School of Law (2020); Creighton University School of Law (2013); Delaware Law School of Widener University (2011)

- Richardson School of Law Faculty Commencement Speaker (class elected 2019, 2021)

- Fellow, American College of Tax Counsel (elected 2015)

- Creighton University Award for Strategic Planning (November 25, 2014)

- Delaware Law School Student Bar Association: President's Award – Wills for Heroes project (2011), Faculty Member of the Year (2007)

- Red Ribbon Humanitarian Award, Delaware HIV Consortium (pro bono legal work) (2010)

SCHOLARSHIP

- *Interest Convergence & the Racial Wealth Gap: Defusing Racism's Divide-and-Conquer via Universal Basic Income*, 110 KEN. L. J. 695 (2022), with Palma J. Strand.

- *Ali'i Trusts, in NATIVE HAWAIIAN LAW: A TREATISE* (MacKenzie, Serrano, Sproat & Tuteur eds., 2d ed. forthcoming 2022), with Ashley K. Obrey & Susan Serrano.

SCHOLARSHIP, *Continued*

- *U.S. Tax Systems Need Anti-Racist Restructuring*, 168 TAX NOTES FED. 855 (2020), with Francine J. Lipman & Palma J. Strand.
 - reprinted & condensed in: *#BlackTaxpayersMatter: Anti-Racist Restructuring of U.S. Tax Systems*, ABA HUM. RTS. MAG. (Vol 46: No. 1, Dec. 2020).
- *Racialized Tax Inequity: Wealth, Racism, and The U.S. System of Taxation*, 15 NW. J. L. & SOC. POL'Y 265 (2020), with Palma J. Strand.
- *Disruptive Leadership in Legal Education*, 22 RICH. PUB. INT. L. REV. 365 (2019), with Palma J. Strand.
- *50 Years of Loving: A Reflection on Seeking Justice Through Love and Relationships*, 50 CREIGHTON L. REV. 685 (2017).
- *Equality or Dysfunction? State Tax Law in a Post-Windsor World*, 47 CREIGHTON L. REV. 261 (2014).
- *Globalism, Public Policy, and Tax-Exempt Status: Are U.S. Charities Adrift at Sea?* 91 N.C. L. REV. 101 (2013).
- *Hall v. U.S.: Chapter 12 Debtors Liable for Post-Petition Taxes*, considerchapter13.org (June 3, 2012) (invited).
- *It's All About Timing: Will Karns Impact the IRS Battles Over Advance Receipts?* 12 DEL. L. REV. 55 (2010) (invited).
- *Losing Our Religion: Reevaluating the §501(c)(3) Exemption of Religious Organizations That Discriminate*, 17 WM. & MARY BILL OF RTS. J. 715 (2009).
- *Return of "Charity Care": The Evolving Debate over Nonprofit Hospitals' Tax-Exempt Status*, 2008 WIDENER FORUM 1 (Fall 2008).
- *Is It Charitable to Discriminate? The Necessary Transformation of Section 501(c)(3) into the Gold Standard for Charities*, 2007 WIS. L. REV. 45 (2007).
- *Relinquish Control! Why the IRS Should Change Its Stance on Exempt Organizations in Ancillary Joint Ventures*, 6 NEV. L.J. 21 (2005).

SELECTED OTHER PUBLICATIONS

- Expert testimony for GAO Report 22104553 (May 18, 2022), *Tax Equity: Lack of Data Limits Ability to Analyze Effects of Tax Policies on Households by Demographic Characteristics*.
- Helix Bar Review by AccessLex, *Agency & Partnership* outlines (2020), with Michael Hussey.

SELECTED OTHER PUBLICATIONS, *Continued*

- “*U.S. Supreme Court Case to Watch: Hall v. U.S.*,” considerchapter13.org (Oct. 23, 2011).
- Editorial, with Patricia D. Beebe, *Going Hungry in Delaware*, THE NEWS J. (Sep. 28, 2008).
- With Lisa D. McLaughlin, *Traps for the Unwary: Tax-Exempt Organizations’ Compliance with the Intermediate Sanctions Rules and Lobbying and Political Campaign Prohibitions*, 49 ST. LOUIS B.J. 18 (Spring 2003).
- *State Taxation of Nonresidents’ Deferred Income: The Eroding Future of Source Taxation*, 16 J. STATE TAX’N 9 (Summer 1997).
- *The Supreme Court’s Decision in Cheek: Does It Encourage Willful Tax Evasion?* 56 MO. L. REV. 1119 (1991).
- *Bankruptcy and Class Actions: The Continuing Conflict Over Class Proofs of Claim*, 56 MO. L. REV. 749 (1991).

PRESENTATIONS

- *Elimination of Bias: The Connection Between Wealth Inequality & Structural Racism in the U.S. Tax System*, with Palma J. Strand February 10, 2022
Minnesota CLE, Advanced Employee Benefits Workshop
- *Racial Wealth Gaps, Economic Inequality, & Democracy* October 22, 2021
with Palma J. Strand, Kentucky Law Review Symposium, “The Racial Wealth Gap”
- *An Introduction to Estate & Trust Planning* November 18, 2020
Āpana ‘Ohana Workshop, Hanalei, Kaua‘i
- *States: The Lynchpin to Reducing Wealth Inequality?* April 22, 2020
Hawai‘i Estate Planning Council
- *En/Countering Race, Racism, and Racial Distinctions in Tax Law* January 5, 2020
AALS Annual Meeting, Open Source Panel, Washington, D.C.
- *De-Norming the Legal Culture of Privilege* January 2, 2020
AALS Annual Meeting, Balance in Legal Education Panel, Washington, D.C.
- *State Tax Systems: The Lynchpin to Reducing Wealth Inequality and Racial Wealth Disparities*
with Palma J. Strand, LatCrit Biennial Conference (Atlanta, Georgia) October 19, 2019
- *Tax Inequity: Federal and State Taxation As Structural Drivers of Wealth Inequality and Racism*, with Palma J. Strand, Critical Tax Conference (Malibu, California) April 6, 2019

PRESENTATIONS, *Continued*

- *Navigating Tax Law and Policy Post TCJA 2017* November 9, 2018
UH Foundation's 2018 Professional Advisor Continuing Education Forum
- *Collective Federal & State Taxation: Contributing to Racial Inequality in America* June 9, 2018
with Palma J. Strand, Law & Society Association Annual Meeting, Toronto, Canada
- *Unitary Business Principle in State Taxation* April 26, 2018
Hawai'i State Bar Association, Tax Section
- *50 Years of Loving: A Reflection on Seeking Justice Through Love and Relationships*
Creighton Law Symposium March 24, 2017
- *Eroding Autonomy Under the Unitary Business Principle* May 29, 2015
Law & Society Association Annual Meeting, Seattle, Washington
- *Tax-Exempt Organizations – Recent Developments* December 5, 2014
Great Plains Federal Tax Institute
- *Ethics and Tax-Exempt Organizations* December 6, 2013
Iowa State Bar Association – 2013 Bloethe Tax School
- *Serving the Community through Nonprofit Organizations* February 27, 2013
PILF Presentation with ACLU Nebraska Legal Director Amy Miller
- *Taxing times: What does the future hold for tax-exemptions at not-for-profit hospitals?*
MODERN HEALTHCARE webcast (co-presenter) February 7, 2012
- *Recent Developments Affecting Tax-Exempt Health Care Organizations* November 18, 2011
St. Louis Area Health Lawyers Association
- *Churches, Taxes & Politics* October 26, 2010
Widener University School of Law "Brown Bag Luncheon" series
- *International Philanthropy and the Public Policy Doctrine* June 2, 2011
Law and Society Annual Meeting, San Francisco, California
- *The Changing Worlds of Trusts and Estates: Pedagogy* August 2, 2010
Southeastern Association of Law Schools Annual Meeting (Moderator)
- *Overview of Delaware Wills & Trusts Law* 2010 & 2011
Wills for Heroes, CLE portion of volunteer event
- *Wills & Trusts: Basic Information & Strategies on Estate Planning* October 22, 2009
ING North America (West Chester, PA; teleconferenced to 11 other U.S. locations) (Co-presenter)

PRESENTATIONS, *Continued*

- *Developments Affecting Discharge of Indebtedness & Utilization of NOLs* January 30, 2009
Delaware Tax Institute (Moderator & co-presenter)
- *Recent Developments Affecting Tax-Exempt Health Care Organizations* March 7, 2008
St. Louis Area Health Lawyers Association
- *Changes Affecting Tax-Exempt Organizations and Planned Giving* November 9, 2007
Delaware Tax Institute (Moderator & co-presenter)
- *Legal Obligations & Hazards of Nonprofit Board Members* February 7, 2007
Pro Bono Inns of Court (Delaware)
- *2006 Developments in Federal Income Taxation* November 14, 2006
Delaware Tax Institute
- *Tax-Exempt Organizations in Delaware* May 31, 2006
Lorman Education Services (Co-presenter)
- *Nonqualified Deferred Compensation: The New Landscape under §409A* November 30, 2005
Delaware Tax Institute (Co-presenter)
- *Current Issues Affecting Tax-Exempt Nonprofits* November 24, 2004
CPA Club of New Castle County
- *Circular 230 and Other Developments Affecting the Ethics of Tax Practice* November 18, 2004
Delaware Tax Institute (Co-presenter)
- *Current Issues for Tax-Exempt Health Care Organizations* November 12, 2004
St. Louis Area Health Lawyers Association
- *Developments Involving Like-Kind Exchanges* November 20, 2003
Delaware Tax Institute (Co-presenter)
- *Boardwork: A Capacity Building Workshop for Directors, Managers,
Board Members, and Advisors of Nonprofit Organizations* (Lorman Education Services) April 30, 2002
- *Current Tax Issues in Health Care Law* January 4, 2002
St. Louis Area Health Lawyers Association
- *Practice Skills for New Lawyers: Representing the Small Business* October 16, 2001
Assisting the Entrepreneur Start-Up: Keys to Success February 15, 2001
Bar Association of Metropolitan St. Louis

PROFESSIONAL AFFILIATIONS/MEMBERSHIPS

- Nonprofit Law Prof Blog, *Contributing Editor* March 2010 to present
- American Bar Association, Section of Taxation – Exempt Organizations, Individual Income Tax
- Association of American Law Schools – Sections on Nonprofit Law and Philanthropy, Taxation
- Missouri Bar Association
- Delaware Tax Institute, Chair & Member of Planning Committee 2008 to 2012
- Bar Association of Metropolitan St. Louis – Member 1996 to 2003; Tax Section Chair 2000 to 2001
- Bar Admissions: Missouri (1992); United States Tax Court (1993); Delaware (pro bono/limited practice, Delaware Supreme Court Rule 55 (2006)); Hawai'i (2021, in progress)

LAW SCHOOL SERVICE**William S. Richardson School of Law**

- *Chair*, Bar Success Committee (January 2020 to June 2021)
- *Co-Faculty Advisor*, *University of Hawai'i Law Review* (January 2020 to June 2022)
- *Director of Faculty Research* (August 2018 to June 2021)
- *Chair* (Spring 2018) & *Member* (Fall 2018, Fall 2019), Faculty Appointments Committee
- *Co-Faculty Advisor*, Advocates for Public Interest Law (Fall 2017 to present)

Creighton University School of Law

- *Faculty Advisor*, *Creighton Law Review* (2016 to 2017)
- *Member*, Administration & Finance Committee (2014 to 2017)
- *Member*, Law School Dean Search Committee (Spring to Fall 2014)
- *Faculty Advisor*, Gay Straight Law Alliance (Fall 2013 to 2017)
- *Chair*, Strategic Planning & Assessment Committee (2012-13 and 2013-14)
- *University Faculty Advisory Group*, Faculty Compensation Review (2013-2014, 2015)
- *Law School Representative*, University Faculty Council (2012-2014)

LAW SCHOOL SERVICE, *Continued***Creighton University School of Law, *Continued*:**

- *Member*, Faculty Appointments Committee (2014-2015, 2016-2017)
- *Member*, Rank & Tenure Committee (2012 to 2015)
- *Member*, Admissions Committee (2012 to 2016); Curriculum Committee (2011-2012)

Delaware Law School of Widener University:

- *Faculty Advisor & Co-Coordinator*, Wills for Heroes (2010, 2011)
- *Chair*, Appointments Committee (2008-2011); *Member* (2007-2008)
- *Coach*, Interscholastic Moot Court Teams (2010 (Trademark) & 2011 (Cultural Heritage))
- *Coach*, Tax Moot Court Team (2009); Co-Coach (2004, 2007, 2008)
- *Co-Faculty Advisor*, *Delaware Journal of Corporate Law* (2003 to 2007)
- *Member*, Professionalism Day Committee (2007-2008); panel moderator (2007-2011)
- *Member*, Public Interest Resource Center Advisory Committee (2005 to 2011)
- *Member*, Admissions Committee (2005-2006, 2008-2009, 2009-2010)
- *Faculty Sponsor/Problem Advisor*, DiBona Moot Court Competition (Fall 2005)

COMMUNITY SERVICE

- AIDS Community Care Team, Honolulu, Hawai'i
President, January 2020 to present
- Dignity Rights International, Wilmington, Delaware
Secretary & Treasurer, January 2020 to present
- Research & Institutional Review Board, The Queen's Medical Center, Honolulu, Hawai'i
Member, November 2018 to present
- Representation of various nonprofit organizations on a *pro bono* basis, 2003 to present
- Nebraska ACLU, Lincoln, Nebraska
Board Member, Vice President, December 2014 – July 2017

COMMUNITY SERVICE, *Continued*

- Academics at Jesuit Universities and Schools, Omaha, Nebraska
Board Member, 2013 – 2017
- Food Bank of Delaware, Newark, Delaware
Chair, Board of Directors, April 2007 to June 2011; Member, June 2004 to June 2011
- Mid-Atlantic Environmental Law Center, Wilmington, Delaware
Member, Board of Directors, September 2010 to July 2011
- Delaware HIV Consortium, Wilmington, Delaware
Secretary, Board of Trustees, May 2006 to May 2007; Member, September 2005 to May 2007
- United Way of Greater St. Louis, Counseling and Support Services Allocation Panel
Vice Chair, 2002 to 2003; Member, 1999 to 2001
- George Mason University School of Law & Pre-Law Program, Fairfax, Virginia
Phi Alpha Delta Alumni Advisor, 1992 to 1996
- Dinner Program for Homeless Women, Washington, D.C.
Volunteer, 1992 to 1994
- Good Shepherd's Teen Center, Washington, D.C., *Tutor, 1992 to 1994*

PUBLIC EDUCATION & COMMENTARY

- 6/9/2022: *NPR Marketplace.org*, “What would it take for the NRA to lose its tax-exempt status?”
- 3/14/2022: “Red flags, fraud and the IRS,” KHON2 (Honolulu) *What's The Law podcasts* with Coralie Chun Matayhosi
- 3/7/2022: “Is COVID-related income taxable; what deductions, credits I can take?” KHON2 (Honolulu) *What's The Law podcasts* with Coralie Chun Matayhosi
- 5/3/2021: *The Nonprofit Times*, “Equilibrium Between Taxes And A Universal Charitable Deduction”
- 4/24/2020: *Honolulu Civil Beat*, “Kamehameha Schools Faces A Spate of Sex Abuse Claims.”
- 1/29/2020: *Honolulu Civil Beat*, “Judge: Attorney General Can Get Bank Records of Mauna Kea Protest Group”
- 11/5/2019: *APNews.com & Fortune.com*, “Airbnb Agrees to Provide Host Records to Hawaii's Department of Taxation”

PUBLIC EDUCATION & COMMENTARY, *Continued*

- 5/13/2019: *MLex US Tax Watch*, “IRS gives edge to nine states for low-income tax clinic grants.”
- 1/27/2019: *Law.com*, “Ahead of the Curve: When Disruption Get Disrupted.”
- 12/28/2017: *The Washington Post*, “Six years later, Penn State is still at war over the Sandusky Scandal.”
- 9/25/2016: *BusinessInsider.com*, “What you need to know about the controversies surrounding the Trump and Clinton Foundations.”
- 2/29/2016: *HuffingtonPost.com*, “Clinton and Trump Should’ve Reported Some Gift to Their Charities as Personal Income, Tax Experts Say.”
- 6/03/2013: *Cardhub.com*, “Ask The Experts: What to Make of the IRS ‘Tea Party’ Scandal.”
- 1/20/2012: *The Jewish Daily Forward*, “Kars4Kids Charity Loses Big on Real Estate.”
- 4/20/2011: *The Jewish Daily Forward*, “JNF Challenged on Discrimination.”
- 12/02/2010: *The Jewish Exponent*, “New Group, Z Street, Pushes Its Case for Tax-Exempt Status.”
- 11/05/2010: Interviewed by Alan Loudell on WDEL 1150 AM; discussed implications of U.S. Supreme Court’s recent oral arguments regarding an Arizona case involving state tax credits issued for the support of primarily religious schools.
- 7/05/2010: *The News Journal*, “Helping heroes plan for the worst” (Wills for Heroes).
- 7/04/2010: Interviewed, along with Delaware Law student Damiano del Pino, on WDEL 1150 AM, discussing Delaware Law’s Wills for Heroes Program.
- 5/11/2010: *Caesar Rodney Institute Blog*, “CRI EXCLUSIVE: Insurance Department’s biggest contractor evading taxes.”
- 5/03/2010: *Modern Healthcare*, “Tax invasion: Hospitals increasingly have to defend exempt status.”
- 4/26/2010: Interviewed on KBIA Radio (PBS station in Columbia, Missouri) about political campaign intervention by Columbia Chamber of Commerce and tax-exempt organizations.
- 1/06/2010: *The Jewish Daily Forward*, “Can Tax-Free Donations Fund Settlements?”
- 11/13/2009: Interviewed on John Watson Show (1450 WILM-AM) about the constitutionality and effect on tax-exempt status of religious organizations and churches engaging in the political process; specifically, current health care legislation and certain states’ gay-marriage initiatives.

PUBLIC EDUCATION & COMMENTARY, *Continued*

- 11/02/2009: Interviewed on WDEL 1150 AM (evening news program); discussed Delaware's status as a tax haven.
- 10/06/2009: *The Dover Post*, “U.S. Supreme Court upholds ruling in Ford tax case.”
- 6/16/2009: *Swissinfo.ch*, “US must chase disappearing dollars, critics say.” Reprinted on June 17, 2009 in *Journal of Turkish Weekly* (turkishweekly.net), “Delaware: Tax Haven or Just ‘advantageous’?”
- 9/28/2008: Editorial, with Patricia D. Beebe, *The News Journal*, “Going Hungry in Delaware.”
- 7/1/2007: *The News Journal*, “Why property taxes are unfair in Delaware owners of mansions, manufactured homes pay similar bills.”
- 8/19/2006: *The News Journal*, “Lehman says bank taxes unconstitutional Investment giant says Del. can't tax all of subsidiary's income; ruling could lead to other suits.”
- 6/02/2006: *The News Journal*, “No-interest loans by town scrutinized Middletown employees eligible for perk, granted under only mayor's discretion.”