

University of Michigan Journal of Law Reform

Volume 40 | Issue 2

2007

Front Matter

Journal of Law Reform

Follow this and additional works at: <https://repository.law.umich.edu/mjlr>

Recommended Citation

Journal of Law Reform, *Front Matter*, 40 U. MICH. J. L. REFORM i (2007).

Available at: <https://repository.law.umich.edu/mjlr/vol40/iss2/1>

This Front Matter is brought to you for free and open access by the University of Michigan Journal of Law Reform at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in University of Michigan Journal of Law Reform by an authorized editor of University of Michigan Law School Scholarship Repository. For more information, please contact mLaw.repository@umich.edu.

UNIVERSITY OF MICHIGAN
JOURNAL of LAW REFORM

VOLUME 40 • ISSUE 2

WINTER 2007

UNIVERSITY OF MICHIGAN
LAW SCHOOL
ANN ARBOR, MICHIGAN



Cite as: 40 U. MICH. J.L. REFORM ____ (2007)

Copyright © 2007 by the *University of Michigan Journal of Law Reform*. All rights reserved. Except where otherwise expressly indicated, copies of scholarship printed in the *University of Michigan Journal of Law Reform* may be made for course use in any public or private institution of learning provided that (1) copies are distributed at or below cost, (2) the author and the *University of Michigan Journal of Law Reform* are identified on the copies, and (3) proper notice of copyright is affixed to each copy.

The *University of Michigan Journal of Law Reform* is published quarterly by students of the University of Michigan Law School. Fourth-class postage paid at Ann Arbor, Michigan 48109. Printed by Joe Christensen, Inc., Lincoln, Nebraska 68521.

University of Michigan Journal of Law Reform
University of Michigan Law School
625 S. State Street
Ann Arbor, MI 48109-1215
Telephone: (734) 763-6100
<http://students.law.umich.edu/mjlr/>

PUBLICATION POLICY

The *Journal* seeks to improve the law and its administration by providing a forum for discussion that identifies contemporary issues for reform efforts, proposes concrete means to accomplish change, and evaluates the impact of law reform. As contributions to this discussion, the *Journal* also welcomes multidisciplinary and empirical work.

We encourage the submission of unsolicited manuscripts for publication. Each manuscript should be typed, double-spaced and sent to the Editor in Chief at the above address or e-mailed to jlr-submissions@umich.edu. Articles should generally conform to *The Bluebook: A Uniform System of Citation* (18th ed. 2005) and *The Chicago Manual of Style* (15th ed. 2003). We regret that we cannot return submitted articles unless they are accompanied by a self-addressed postage-paid envelope.

Views expressed in the *Journal* are those of the authors and not necessarily those of the editorial staff.

SUBSCRIPTIONS

The current subscription rate is \$35.00 domestic and \$40.00 foreign. All business inquiries should be made to (734) 763-6100. Subscribers should report the nonreceipt of copies within six months of the mailing date.

INDIVIDUAL AND BACK ISSUES

Copies of individual issues from the current volume can be obtained directly from the *Journal* for \$15.00 each.

Back issues in complete sets, volumes, or single issues can be obtained from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, New York 14209—Telephone (716) 882-2600. The *Journal* is also available on microfilm through ProQuest, 300 North Zeeb Road, Ann Arbor, Michigan 48106-1346—Telephone (800) 521-0600. Back issues are also available in PDF format through HeinOnline at <http://heinonline.org>.

INDEXES

The *Journal* is indexed in the Current Law Index, Index to Legal Periodicals, Legal Resource Index, and PAIS Bulletin.

ISSN 0033-1546

UNIVERSITY OF MICHIGAN
JOURNAL of LAW REFORM

Editorial Board

Volume 40 • 2006–2007

Editor in Chief

KATE ZELL

Managing Editor

TARA M. SUGIYAMA

Managing Article Editor

AARON R. PETTY

Managing Executive Editor

JOSHUA D. MEEUWSE

Managing Note Editor

TRACY E. SCHLOSS

Article Editors

KATHERINE LACY CROSBY
JOHN A. FONSTAD
FIZA A. QURAIISHI
BREANNE M. SHEETZ

Executive Editors

JESSICA M. ANDRADE
KYLE Y. FAGET
KATIE M. KRAJECK
AARON G. RUBIN

Note Editors

CHRISTOPHER J. HOPFENSBERGER
CRISTIANA N. HUYNH
JEFFREY S. JACOBI
POONAM KUMAR
DENISE L. PASQUALE

Symposium Editor

EMILY C. KELLER

Contributing Editors

ZUBAIR Z. AHMAD
MARC M. ALLON
JENNIFER A. BERMAN
JOANN S. CHANG
DEBRA S. FALK
THOMAS A. FERRONE
JORDAN M. FLAKE
MATTHEW B. FRIEDMAN

MAHER H. HADDAD
BENJAMIN M. HARELL
NEAL P. JAGTAP
AMBER S. KOCSIS
KELVIN M. LAWRENCE
BOB LEHNER
SAMANTHA L. MAXFIELD

CRISTINA PARRA
BRETON A. PEACE
PAUL C. PORTER
JENNIFER D. RUPERT
MANEESH SHARMA
TIMOTHY J. THROM
ADAM J. WIENNER
JOSEPH K. WRIGHT

Associate Editors

ARIN C. ARAGONA
PAUL P. ARNOLD
STEVEN BABINSKI
STEPHANIE J. BLACK
AILEEN M. CANNON
ALANNA G. CLAIR
MONICA R. COSTELLO
SOLANDRA J. CRAIG
CORIE A. D'ANGELO
ELIZABETH A. DINSMORE
MALINDA A. ELLWOOD
BRIAN W. FERRY
BRIAN A. FOGERTY
AMANDA FOX
MELANIE J. FOX
JENNIFER R. GARNER

ZACHARY J. GARRETT
CAROLYN M. GRUNST
ARIEL E. HENDERSON
AMANDA N. HEYMAN
CHRISTINE M. HINTZ
MITCHELL D. HOLZRICHTER
STEPHEN W. KILAR
SHELLY M. KLAUS
JOSEPH D. KLINE
ALAN W. KRANTZ
KARIN M. KRINGEN
KATYA LAZAREV
CHAD J. LINDNER
JULIE S. MARDER
ALAN A. MARTINSON
SARAH E. MEHLMAN

ARIANA M. MELLOW
AESHA R. PALLESEN
LARRY S. PERLMAN
WILLIAM POLLAK
KATE E. POMPER
PARIJAT SHARMA
ELIZABETH L. SIMPSON
SCOTT E. SIMPSON
ZACHARY R. SMITH
MICHAEL R. TUNICK
DIANA M. URIBE
JOEL F. VISSER
DAVID M. WAGENER
WENDY M. WATSON
KELSEY N. WRIGHT
YAN XIAO

Manager

MAUREEN A. BISHOP

Editorial Assistants

CATHERINE T. LEGGIERI
MATTHEW S. REDDING
BARBARA I. SUMMERS

Clerk

JENNIFER A. WASHBURN

UNIVERSITY OF MICHIGAN LAW SCHOOL

Winter 2007

Administrative Officers

MARY SUE COLEMAN, B.A., PH.D., *President of the University*
TERESA A. SULLIVAN, B.A., PH.D., *Provost and Executive Vice President for Academic Affairs*
EVAN H. CAMINKER, B.A., J.D., *Dean*
KYLE D. LOGUE, B.A., J.D., *Associate Dean for Academic Affairs*
BRIDGET M. MCCORMACK, B.A., J.D., *Associate Dean for Clinical Affairs*
VIRGINIA B. GORDAN, B.A., J.D., *Assistant Dean for International Affairs*
DAVID H. BAUM, B.A., J.D., *Assistant Dean for Student Affairs*
KATHERINE B. GOTTSCHALK, B.A., *Assistant Dean for Financial Aid*
SUSAN M. GUINDI, B.A., J.D., *Assistant Dean for Career Services*
SARAH C. ZEARFOSS, A.B., J.D., *Assistant Dean and Director of Admissions*
TODD BAILY, B.A., *Assistant Dean for Development and Alumni Relations*
MARYANN SAROSI, B.A., J.D., *Assistant Dean of Public Service*

Professors Emeriti of Law

FRANCIS A. ALLEN, A.B., LL.B., J.D., LL.D.,
Edson R. Sunderland Professor of Law
LAYMAN E. ALLEN, A.B., M.P.A., LL.B.
OLIN L. BROWDER, A.B., LL.B., S.J.D.,
James V. Campbell Professor of Law
DAVID L. CHAMBERS, A.B., LL.B.,
Wade H. McCree, Jr. Collegiate Professor of Law
ALFRED F. CONARD, A.B., LL.B., LL.M.,
J.S.D., LL.D.,
Henry M. Butzel Professor of Law
LUKE K. COOPERRIDER, B.S., J.D.
ROBBEN W. FLEMING, B.A., LL.B., LL.D.
WHITMORE GRAY, A.B., J.D., LL.D.
JEROLD H. ISRAEL, B.B.A., LL.B.,
Alene and Allan F. Smith Professor of Law
JOHN H. JACKSON, B.A., J.D.,
Hessel E. Yntema Professor of Law
CHARLES W. JOINER, A.B., J.D.
YALE KAMISAR, A.B., LL.B., LL.D.,
*Clarence Darrow Distinguished University
Professor of Law*
FRANK R. KENNEDY, A.B., LL.B., J.S.D.,
Thomas M. Cooley Professor of Law
ROY F. PROFFITT, B.S., J.D., LL.M.
JOHN W. REED, A.B., LL.B., LL.M.,
JUR.Sc.D., LL.D.,
Thomas M. Cooley Professor of Law
TERRANCE SANDALOW, A.B., J.D.,
Edson R. Sunderland Professor of Law
THEODORE J. ST. ANTOINE, A.B., J.D.,
James E. and Sarah A. Degan Professor of Law
ERIC STEIN, J.U.D., J.D., DR.H.C.,
Hessel E. Yntema Professor of Law
PETER O. STEINER, A.B., M.A., PH.D.

Professors of Law

REUVEN S. AVI-YONAH, B.A., A.M., PH.D., J.D.,
Irwin I. Cohn Professor of Law
MICHAEL S. BARR, B.A., M.PHIL., J.D.
OMRI BEN-SHAHAR, B.A., LL.B., LL.M., S.J.D.,
PH.D., *Kirkland & Ellis Professor of Law*
EVAN H. CAMINKER, B.A., J.D.
SHERMAN J. CLARK, B.S., J.D.
EDWARD H. COOPER, A.B., LL.B.,
Thomas M. Cooley Professor of Law
STEVEN P. CROLEY,* A.B., J.D., M.A., PH.D.
REBECCA S. EISENBERG, B.A., J.D.,
Robert and Barbara Luciano Professor of Law
PHOEBE C. ELLSWORTH, A.B., PH.D.,
*Frank Murphy Distinguished Professor of Law
and Psychology*
RICHARD D. FRIEDMAN, B.A., J.D., D.PHIL.,
Ralph W. Aigler Professor of Law
BRUCE W. FRIER, B.A., PH.D.,
Henry King Ransom Professor of Law
THOMAS A. GREEN, B.A., PH.D., J.D.,
John Philip Dawson Collegiate Professor of Law
SAMUEL R. GROSS, A.B., J.D.,
Thomas G. and Mabel Long Professor of Law
DANIEL HALBERSTAM, B.A., J.D.
JAMES C. HATHAWAY,* LL.B., LL.M., J.S.D.,
James E. and Sarah A. Degan Professor of Law
DONALD J. HERZOG, A.B., A.M., PH.D.,
Edson R. Sunderland Professor of Law
JAMES HINES JR., B.A., M.A., PH.D.
ROBERT L. HOWSE, B.A., LL.B., LL.M.,
Alene and Allan F. Smith Professor of Law
DOUGLAS A. KAHN, B.A., J.D.,
Paul G. Kauper Professor of Law
ELLEN D. KATZ, B.A., J.D.
THOMAS E. KAUPER,* A.B., J.D.,
Henry M. Butzel Professor of Law
VIKRAMADITYA S. KHANNA,* B.C.A., LL.B., S.J.D.
JAMES E. KRIER, B.S., J.D.,
Earl Warren DeLano Professor of Law
DOUGLAS LAYCOCK, B.A., J.D.,
Yale Kamisar Collegiate Professor of Law
RICHARD O. LEMPERT,* A.B., J.D., PH.D.,
*Eric Stein Distinguished University Professor of
Law and Sociology*
JESSICA D. LITMAN, B.A., M.F.A., J.D.
KYLE D. LOGUE, B.A., J.D.,
Wade H. McCree, Jr. Collegiate Professor of Law
CATHARINE A. MACKINNON,* B.A., J.D., PH.D.,
Elizabeth A. Long Professor of Law

NINA A. MENDELSON, A.B., J.D.
WILLIAM I. MILLER,* B.A., PH.D., J.D.,
Thomas G. Long Professor of Law
EDWARD A. PARSON,* B.SC., M.SC., PH.D.
SALLYANNE PAYTON,* B.A., LL.B.,
William W. Cook Professor of Law
RICHARD A. PRIMUS, A.B., D.PHIL., J.D.
ADAM C. PRITCHARD, B.A., M.P.P., J.D.
STEVEN R. RATNER, A.B., M.A., J.D.
DONALD H. REGAN,* A.B., LL.B., B.PHIL., PH.D.,
William W. Bishop, Jr. Collegiate Professor of Law
MATHIAS W. REIMANN,* DR.IUR., LL.M.,
Hessel E. Yntema Professor of Law
CARL E. SCHNEIDER,* A.B., J.D.,
*Chauncey Stillman Professorship for Ethics,
Morality, and the Practice of Law*
REBECCA J. SCOTT,* A.B., M.PHIL., PH.D.,
*Charles Gibson Distinguished University
Professor of History*

SCOTT J. SHAPIRO,* B.A., J.D., PH.D.
A.W. BRIAN SIMPSON, B.A., M.A., D.C.L.,
Charles F. and Edith J. Clyne Professor of Law
E. PHILIP SOPER,* B.A., M.A., J.D., PH.D.,
James V. Campbell Professor of Law
JOSEPH VINING, B.A., M.A., J.D.,
Harry Burns Hutchins Collegiate Professor of Law
LAWRENCE W. WAGGONER, B.B.A., J.D.,
D.PHIL., *Lewis M. Simes Professor of Law*
MARK D. WEST, B.A., J.D.,
Nippon Life Professor of Law
PETER K. WESTEN,* B.A., J.D.,
Frank G. Millard Professor of Law
JAMES BOYD WHITE, A.B., A.M., LL.B.,
L. Hart Wright Collegiate Professor of Law
JAMES J. WHITE,* B.A., J.D.,
Robert A. Sullivan Professor of Law
CHRISTINA B. WHITMAN, A.B., MA., J.D.,
Francis A. Allen Collegiate Professor of Law

Assistant Professors of Law

LAURA N. BENY, B.A., M.A., J.D., PH.D.
SUSANNA L. BLUMENTHAL,* A.B., J.D., PH.D.
EVE BRENSIKE, B.A., J.D.
ALICIA DAVIS EVANS, B.S., J.D., M.B.A.
DAVID M. HASEN, B.A., PH.D., J.D.

JILL R. HORWITZ,* B.A., M.P.P., J.D., PH.D.
NICHOLAS C. HOWSON, B.A., J.D.
MADELINE KOCHEN, B.A., J.D., A.M., PH.D.
JOHN A.E. POTTOW, A.B., J.D.
JAMES J. PRESCOTT, B.A., J.D.
GIL SEINFELD,* A.B., J.D.

Clinical Professors of Law

ALICIA ALVAREZ, B.A., J.D.
DONALD N. DUQUETTE, B.A., J.D.
PHILIP M. FROST, B.A., J.D.
BRIDGET M. MCCORMACK,* B.A., J.D.

PAUL D. REINGOLD,* B.A., J.D.
NICHOLAS J. RINE, B.A., J.D.
ANNE N. SCHROTH, B.A., J.D.
GRACE C. TONNER, B.A., J.D.

Clinical Assistant Professors of Law

EDWARD R. BECKER, B.A., J.D.
EMILY S. BRUCE, A.B., J.D.
RACHEL CROSKERY-ROBERTS, B.A., J.D.
PAUL H. FALON, B.A., M.A., J.D.
MARK K. OSBECK, A.B., M.A., J.D.
ROSHUNDA PRICE, B.B.A., J.D.

VIVEK SANKARAN, B.A., J.D.
DAVID A. SANTACROCE, B.A., J.D., LL.M.
THOMAS H. SEYMOUR, B.A., M.A., J.D.
KIMBERLY A. THOMAS, B.S., J.D.
FRANK E. VANDERVORT, B.A., J.D.
BETH H. WILENSKY, B.A., J.D.

Visiting Professors of Law

JAMES DESIMPELARE, B.S., M.B.A.
ERIC FREYFOGLE, B.A., J.D.
KARTHY GOVENDER, LL.B., LL.M.
DOUG HUSAK, B.A., PH.D., J.D.

SHERMAN JACKSON, B.A., M.A., PH.D.
MARTHA JONES, B.A., J.D., M.A., M.PHIL, PH.D.
DINO KRITSIOTIS, LL.B., LL.M.
CHRISTOPHER PETERS, B.A., J.D.

Business Faculty Fellows

BARRY A. ADELMAN, B.A., J.D.
TIMOTHY L. DICKINSON, A.B., J.D., LL.M.

KARL E. LUTZ, B.A., J.D.
DENNIS ROSS, B.A., J.D.

Public Service/Public Interest Faculty Fellows

SALLY KATZEN DYK, B.A., J.D.
SAUL GREEN, B.A., J.D.

JUDY LEVY, B.S., J.D.
MARK ROSENBAUM, B.A., J.D.
MARK VAN PUTTEN, B.A., J.D.

Adjunct Professors

J. PHILLIP ADAMS, B.A., J.D., LL.M.
JACK BERNARD, M.A., J.D.
SARA GOSMAN, A.B., J.D.
DEAN GOULD, B.A., J.D.
KATHLEEN HEGARTY, B.A., J.D.
YORAM KEINAN, LL.B., B.A., ITP/MPA,
LL.M./S.J.D.
ALLYN KANTOR, B.S., J.D.
MARVIN KRISLOV, M.A., J.D.

JOAN LARSEN, B.A., J.D.
EMILY MORRIS, B.A., J.D.
CYRIL MOSCOW, B.S., J.D.
RACHEL NEIS, LL.B., M.A., PH.D.
LEONARD NIEHOFF, A.B., J.D.
JOHN NIEHUSS, B.A., J.D.
BARBARA NOVAK, A.B., J.D.
EDWARD R. STEIN, B.A., J.D.
BARRY WINOGRAD, B.A., J.D., LL.M.

Adjunct Clinical Assistant Professors

MARY ERICSON, B.A., J.D.
NEIL S. KAGAN, B.S., M.S., J.D.

VALERIE NEWMAN, B.A., J.D.
PETER VAN HOEK, B.A., J.D.

Adjunct Instructors

MARGARET LEARY, B.A., M.A., J.D.

AIMEE MANGAN, B.A., J.D.

UNIVERSITY OF MICHIGAN

JOURNAL of LAW REFORM

VOLUME 40 • ISSUE 2

WINTER 2007

CONTENTS

ARTICLES

Access to Information, Access to Justice:
The Role of Presuit Investigatory Discovery
Lonny Sheinkopf Hoffman 217

The Moral Hazard Problem with
Privatization of Public Enforcement:
The Case of Pharmaceutical Fraud
Dayna Bowen Matthew 281

Emergency Federalism:
Calling on the States in Perilous Times
Adam M. Giuliano 341

NOTE

The Choice to Limit Choice:
Using Psychiatric Advance Directives to Manage the
Effects of Mental Illness and Support Self-Responsibility
Breanne M. Sheetz 401