

University of Michigan Journal of Law Reform

Volume 38 | Issue 1

2004

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*, 38 U. MICH. J. L. REFORM i (2004).

Available at: <https://repository.law.umich.edu/mjlr/vol38/iss1/1>

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 38 • ISSUE 1

FALL 2004

UNIVERSITY OF MICHIGAN
LAW SCHOOL
ANN ARBOR, MICHIGAN



Cite as: 38 U. MICH. J.L. REFORM ____ (2004)

Copyright © 2004 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 jlrs-submissions@umich.edu. Articles should generally conform to *A Uniform System of Citation* (17th ed. 2000) 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 subscription inquiries should be made, by mail or phone as stated above, to the Business Manager. 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 University Microfilms International, 300 North Zeeb Road, Ann Arbor, Michigan 48106—Telephone (734) 761-4700.

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 38 • 2004–2005

Editor in Chief
TRAVIS A. SKELTON

Managing Editor
KRISTEN M. JACOBY

Managing Article Editor
WESLEY E. STOCKARD

Article Editors
JUSTIN A. AMASH
ANDREW D. CATTELL
ANDREA J. DELGADILLO
PATRICK B. R. EGAN

Special Projects Editor
STEPHANIE D. ZAMECK

UMBREEN S. BHATTI
TASHEIKA HINSON COLEMAN
DEBRA R. COLETTI
WHITNEY A. FELLBERG
ADAM D. GRANT
ELIZABETH R. HUSA

BRENDA F. ABDELALL
RITA D. ABRU
NADA K. ABU-ISA
HENKIE F. BARRON
AARON M. BARTELL
KRISTEN M. BOIKE
WALTRESE H. CARROLL
JENNY CHEN
GRACE M. CHU
DREY A. COOLEY
CAREY L. CUPRISIN
MELISSA A. DEGAETANO
CHAD R. DOOBAY
TALIA C. DUBOVI
DAVID J. EPSTEIN
DANIEL J. FAZIO

Business Manager
MAUREEN A. BISHOP

Executive Editors
AARON S. CUTLER
KELLY I. HARROLD
JESSICA E. MARGOLIN
JEAN SOH
ROBYN M. TESSIN

Contributing Editors
EDWIN J. KILPELA
ERIC LAUFGRABEN
BEAU L. LEFLER
ELISABETH J. NEUBAUER
WILLIAM A. NOVOMISLE

Associate Editors
GREGORY R. FLAX
COLLIN B. FOULDS
JASON D. GLENN
ELIZABETH A. GOBESKI
BRYAN H. HERZBACH
LOUSENE M. HOPPE
HEATHER L. HUDSON
NICOLE M. JONES
LISA A. KAEGI
CYNTHIA S. KAO
ROBERT A. KOCH
JANA LEE S. KRASCHNEWSKI
JOE A. LAMONTE
SONAH LEE
MAURICE LOEBL
PHILIP C. MAXWELL
CHEROKEE D.M. MELTON

Editorial Assistants
CATHERINE T. LEGGIERI
MATTHEW S. REDDING

Executive Note Editor
ANDREW J. LIEVENSE

Note Editors
DAVID R. CHO
ILANA CUTLER
DANIEL B. DAVIS
ERIN L. DICKINSON
BRIAN P. MCCLATCHEY

Symposium Editors
M. RYAN CALO
ELIZABETH Y. WEI

WILLIAM R. PEARSON
ERIKA PENNILL
PATRICK J. ROSENTHAL
BEVERLY J. RYSKAMP
STANLEY S. SHEPARD
DAVID B. SHER

JESSICA L. MITCHELL
MEREDITH A. MLYNAR
ALEXIS KUMARI NELSON
KIMBERLY SCHRIEVER
JEFFREY M. SCHWAB
KARA A. SHAMY
ESTER SHTIVELMAN
MIA O. SOLVESSON
MELANIE SONNENBORN
RACHEL L. STEIN
KRYSTLE A. THOMAS
JASON S. WEINSTEIN
JAMES O. WILLIAMSON
DANIEL A. WOLF
CATHERINE J. YU
RICHARD J. ZITO

Office Assistant
LAURIE E. BRANNAN

UNIVERSITY OF MICHIGAN LAW SCHOOL

Fall 2004

Administrative Officers

MARY SUE COLEMAN, B.A., Ph.D. *President of the University*
PAUL N. COURANT, B.A., M.A., Ph.D., *Provost and Executive Vice President for Academic Affairs*
EVAN H. CAMINKER, B.A., J.D., *Dean*
STEVEN P. CROLEY, A.B., J.D., M.A., Ph.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 Programs*
DAVID H. BAUM, B.A., J.D., *Assistant Dean of Students*
CHARLOTTE H. JOHNSON, B.A., J.D., *Assistant Dean of Students*
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*

Professors Emeriti of Law

FRANCIS A. ALLEN, A.B., LL.B., J.D., LL.D.,
Edson R. Sunderland Professor of Law
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.
SAMUEL D. ESTEP, A.B., 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 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

LAYMAN E. ALLEN, A.B., M.P.A., LL.B.
REUVEN S. AVI-YONAH, B.A., A.M., Ph.D., J.D.,
Irwin I. Cohn Professor of Law
OMRI BEN-SHAHAR,* B.A., LL.B., LL.M., Ph.D.
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
RODERICK M. HILLS, JR.,* B.A., J.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
RICHARD O. LEMPERT,* A.B., J.D., Ph.D.,
Eric Stein Distinguished University Professor of Law
KYLE D. LOGUE,* B.A., J.D.
CATHARINE A. MACKINNON, B.A., J.D., Ph.D.,
Elizabeth A. Long Professor of Law
NINA A. MENDELSON, B.A., 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, A.B., LL.B.
William W. Cook Professor of Law
ADAM C. PRITCHARD, B.A., M.P.P., J.D.

STEVEN R. RATNER,* A.B., J.D., M.A.
DONALD H. REGAN, A.B., LL.B., B.PHIL., PH.D.
William W. Bishop, Jr. Collegiate Professor of Law
MATIAS 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*
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., M.A., J.D.
Francis A. Allen Collegiate Professor of Law

Assistant Professors of Law

MICHAEL S. BARR,* B.A., M.PHIL., J.D.
LAURA N. BENY, B.A., M.A., J.D., PH.D.
SUSANNA L. BLUMENTHAL, A.B., M.A., J.D.,
M.PHIL.
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.
JOHN A.E. POTTOW, A.B., J.D.
RICHARD A. PRIMUS,* A.B., D.PHIL., J.D.
MOLLY S. VAN HOUWELING,* B.A., J.D.

Clinical Professors of Law

DONALD N. DUQUETTE, B.A., J.D.
ROCHELLE E. LENTO, 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.
GRACE C. TONNER, B.A., J.D.

Clinical Assistant Professors of Law

EDWARD R. BECKER, B.A., J.D.
LAURENCE D. CONNOR, A.B., J.D.
RACHEL CROSKERY-ROBERTS, B.A., J.D.
DIANE EISENBERG, B.A., M.A., J.D.
PHILIP M. FROST, B.A., J.D.
ROSHUNDA PRICE, B.B.A., J.D.
THOMAS G. ROZINSKI, B.A., A.M., J.D.

DAVID A. SANTACROCE, B.A., J.D., LL.M.
ANNE N. SCHROTH, B.A., J.D.
THOMAS H. SEYMOUR, B.A., M.A., J.D.
KIMBERLY A. THOMAS, B.S., J.D.
BETH H. WILENSKY, B.A., J.D.
ORIT KAMIR, LL.B., M.A., LL.M., J.S.D.

Affiliated Overseas Professors

CHRISTINE CHINKIN, LL.B., LL.M., LL.M.,
PH.D.
J. CHRISTOPHER MCCRUDDEN, LL.B., LL.M.,
D.PHIL.

BRUNO E. SIMMA, DOCTORATE OF LAW

Visiting Professors of Law

GAVIN S. CLARKSON, B.A., MBA., PH.D., J.D.
SARAH CLEVELAND, A.B., M.St., J.D.
ULRICH FASTENRATH, STATE EXAM (GERMANY)

DAVID MORAN, B.S., B.A., M.A., M.S., J.D.
MARGARET JANE RADIN, A.B., M.F.A., J.D., LL.D.
ALAN SCHENK, B.S., LL.B., LL.M.

Adjunct Professors

BARRY A. ADELMAN, B.A., J.D.*
ANDREW P. BUCHSBAUM, A.B., J.D.
JESSICA R. COOPER, B.A., J.D.
SAUL GREEN, B.A., J.D.
WILLIAM R. JENTES, A.B., J.D.
SUSAN KORNFIELD, B.A., J.D.

JEFFREY LISS, B.A., J.D., M.A.
KARL E. LUTZ, B.A., J.D.
JEFFREY H. MIRO, B.A., J.D., LL.M.
CYRIL MOSCOW, B.S., J.D.
LEONARD NIEHOFF, A.B., J.D.
KELLI S. TURNER, B.B.A., J.D.

Adjunct Clinical Assistant Professors of Law

LORRAY S. BROWN, B.A., J.D.
CHARI GROVE, B.A., J.D.
NEIL S. KAGAN, B.S., M.S., J.D.

STEVIE SWANSON, B.A., J.D.
FRANK VANDERVORT, B.A., J.D.
PETER VAN HOEK, B.A., J.D.

*on leave Fall 2004

UNIVERSITY OF MICHIGAN
JOURNAL of LAW REFORM

VOLUME 38 • ISSUE 1

FALL 2004

CONTENTS

ARTICLES

- Public Nuisance Claims Against Gun Sellers:
New Insights and Challenges
Jean Macchiaroli Eggen
John G. Culhane 1
- Bilingualism and Equality: Title VII Claims for
Language Discrimination in the Workplace
James Leonard 57
- An Examination of Patents, Licensing, Research Tools,
and the Tragedy of the Anticommons in
Biotechnology Innovation
Michael S. Mireles141

NOTE

- Standard of Review for Prosecutorial Use of Race
Evidence During Trial
Peter Chung237