

Michigan Law Review

Volume 118 | Issue 3

Article 1

2019

Front Matter

Michigan Law Review

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

Recommended Citation

Michigan Law Review, *Front Matter*, 118 MICH. L. REV. i (2019).
Available at: <https://repository.law.umich.edu/mlr/vol118/iss3/1>

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

MICHIGAN LAW REVIEW

Vol. 118, No. 3

December 2019

CONTENTS

ARTICLES

- THE PROCEDURE FETISH *Nicholas Bagley* 345
- MDL AS PUBLIC ADMINISTRATION *David L. Noll* 403

NOTES

- A POST-*SPOKEO*
TAXONOMY OF INTANGIBLE HARMS *Jackson Erpenbach* 471
- FORENSIC BORDER SEARCHES
AFTER *CARPENTER* REQUIRE
PROBABLE CAUSE AND A WARRANT *Christopher I. Pryby* 507

Except where otherwise expressly provided, the author of each Article, Essay, and Note in this issue has granted permission for copies of that Article, Essay, or Note to be made for educational use, provided that (i) copies are distributed at or below cost; (ii) copies identify the author, the *Michigan Law Review*, the volume, the number of the first page, and the year of the publication; and (iii) proper notice of copyright is affixed to each copy, attributing copyright to the author.

Michigan Law Review (ISSN 0026-2234) is published in October, November, December, February, March, April, May, and June. Subscriptions: United States, \$60 per year in advance, eight numbers; Foreign, \$70. Editorial and Business Offices: University of Michigan Law Library, 801 Monroe St., Ann Arbor, Michigan 48109-1210; MLR-business@umich.edu (Business); 734/647-5817 (Fax). Website: <http://www.michiganlawreview.org>. Periodicals postage paid at Ann Arbor, Michigan and additional mailing offices. POSTMASTER: send address changes to University of Michigan Law Library, 801 Monroe St., Ann Arbor, Michigan 48109-1210.

Printed by Sheridan, Hanover, PA 17331.

Recent Volumes: Single Issues \$10, Book Review \$16, and Special Issues \$12, postpaid, at Editorial and Business Offices.

Volumes 1 through 112, as well as single issues in those volumes, are available in print and microform from William S. Hein & Co., Inc., 2350 North Forest Road, Getzville, New York 14068.

Because back stock of the *Review* is turned over to a dealer, back numbers are available to the *Review* for a short time only. We must therefore ask that subscribers report the nonreceipt of copies within six months of the mailing date.

We gladly consider unsolicited manuscripts for publication via Scholastica. Citations in manuscripts should follow the form prescribed in *The Bluebook: A Uniform System of Citation* (20th ed. 2015) and *The Chicago Manual of Style* (17th ed. 2017). Please see our website for submission instructions.

MICHIGAN LAW REVIEW ONLINE

The Online Companion of the *Michigan Law Review*

Call for Submissions

The editors of the *Michigan Law Review* invite essay submissions on current areas of legal thought and research for the *Michigan Law Review Online*.

Michigan Law Review Online publishes short articles and op-ed style pieces by academics, judges, practitioners, and law students, as well as timely responses to articles in the print journal of the *Michigan Law Review*. Our online companion quickly disseminates the legal community's initial impressions of important judicial decisions and legislative developments.

Michigan Law Review Online prefers submissions under 6,000 words inclusive of footnotes and can only very rarely accept longer pieces. Submissions should be written in a style accessible to a general audience of practitioners and policymakers. Pieces will be published on an expedited production schedule.

Visit *Michigan Law Review Online* at
www.michiganlawreview.org.

Please send questions and comments to the
Executive Online Editors at
mlr.online@umich.edu

The editors of the *Michigan Law Review*
are pleased to announce

2020 SURVEY OF BOOKS
RELATING TO THE LAW
published April 2020

The 2020 Survey presents reviews of law-related
books published in 2017, 2018, and 2019.

Please address inquiries to:

Michigan Law Review
University of Michigan Law School
Attn: Book Review Editors
625 S. State St.
Ann Arbor, MI 48109-1215

Visit our website at
www.michiganlawreview.org.

UNIVERSITY OF MICHIGAN LAW SCHOOL

Administrative Officers

Mark Schlissel, B.A., M.D., Ph.D., *President of the University*
Martin A. Philbert, B.Sc., Ph.D., *Provost and Executive Vice President for Academic Affairs*
Mark D. West, B.A., J.D., *Nippon Life Professor of Law, Dean*
Bridgette Carr, B.A., J.D., *Clinical Professor of Law, Associate Dean for Strategic Initiatives*
Debra Chopp, B.A., J.D., *Clinical Professor of Law, Associate Dean for Experiential Education*
Daniel Halberstam, B.A., J.D., *Eric Stein Collegiate Professor of Law, Associate Dean for Faculty and Research, Director of European Legal Studies Program*
David Santacroce, B.A., J.D., LL.M., *Clinical Professor of Law, Associate Dean for Experiential Education*
Gil Seinfeld, A.B., J.D., *Professor of Law, Associate Dean for Academic Programming*
Michael Dubin, B.S., M.A., *Assistant Dean for Development and Alumni Relations*
Theresa Kaiser-Jarvis, B.A., B.S.J., Ed.M, J.D., *Assistant Dean for International Affairs*
Ramji Kaul, B.A., J.D., *Assistant Dean for Career Planning*
Bayrex Marti, B.A., J.D., *Assistant Dean for Student Life*
Lindsey Stetson, B.A., J.D., *Assistant Dean for Financial Aid*
Sarah C. Zearfoss, B.A., J.D., *Senior Assistant Dean for Admissions, Financial Aid, and Career Planning*

Professors Emeriti of Law

David L. Chambers, A.B., LL.B.,
Wade H. McCree, Jr. Collegiate Professor of Law
Edward H. Cooper, A.B., LL.B.,
Thomas M. Cooley Professor of Law
Donald N. Duquette, B.A., J.D.,
Clinical Professor of Law
Phoebe C. Ellsworth, A.B., Ph.D.,
Frank Murphy Distinguished Professor of Law and Psychology
Philip M. Frost, B.A., J.D.,
Clinical 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
Jerold H. Israel, B.B.A., LL.B.,
Alene and Allan F. Smith Professor of Law
Douglas A. Kahn, B.A., J.D.,
Paul G. Kauper Professor of Law
Yale Kamisar, A.B., LL.B., LL.D.,
Clarence Darrow Distinguished University Professor of Law
Thomas E. Kauper, A.B., J.D.,
Henry M. Butzel Professor of Law
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 and Sociology
Sallyanne Payton, B.A., LL.B.,
William W. Cook Professor of Law
Margaret Jane Radin, A.B., M.F.A., J.D., LL.D.,
Henry King Ransom Professor of Law
Nicholas J. Rine, B.A., J.D.,
Clinical Professor of Law
Terrance Sandalow, A.B., J.D.,
Edson R. Sunderland Professor of Law
Suellyn Scamecchia, B.A., J.D.,
Clinical Professor of Law
E. Philip Soper, B.A., M.A., J.D., Ph.D.,
James V. Campbell Professor of Law
Theodore J. St. Antoine, A.B., J.D.,
James E. and Sarah A. Degan 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
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

Professors of Law

Kate Andrias, B.A., J.D.
Reuven S. Avi-Yonah, B.A., A.M., Ph.D., J.D.,
Irwin I. Cohn Professor of Law
Samuel Bagenstos, B.A., J.D.,
Frank G. Millard Professor of Law
Nicholas Bagley, B.A., J.D.
Michael S. Barr, B.A., M.Phil., J.D.,
Roy F. and Jean Humphrey Proffitt Professor of Law
Laura N. Beny, B.A., M.A., J.D., Ph.D.
Evan H. Caminker, B.A., J.D.,
Branch Rickey Collegiate Professor of Law
Albert Choi, B.A., J.D., Ph.D.
Sherman J. Clark, B.S., J.D.,
Kirkland and Ellis Professor of Law
Daniel Crane, B.A., J.D.,
Frederick Paul Furth, Sr. Professor of Law
Steven P. Croley, A.B., J.D., M.A., Ph.D.,
Harry Burns Hutchins Collegiate Professor of Law
Alicia Davis, B.S., M.B.A., J.D.
Kristina Daugirdas, A.B., J.D.
Rebecca S. Eisenberg, B.A., J.D.,
Robert and Barbara Luciano Professor of Law
Richard D. Friedman, B.A., J.D., D.Phil.,
Alene and Allan F. Smith Professor of Law
Bruce W. Frier, B.A., Ph.D.,
John and Teresa D'Arms Distinguished University Professor of Classics and Roman Law
Monica R. Hakimi, B.A., J.D.
Daniel Halberstam, B.A., J.D.,
Eric Stein Collegiate Professor of Law
James C. Hathaway, LL.B., LL.M., J.S.D.,
James E. and Sarah A. Degan Professor of Law
Scott Hershovitz, A.B., M.A., D.Phil., J.D.
Donald J. Herzog, A.B., A.M., Ph.D.,
Edson R. Sunderland Professor of Law
James Hines Jr., B.A., M.A., Ph.D.,
L. Hart Wright Collegiate Professor of Law
Nicholas C. Howson, B.A., J.D.

Ellen D. Katz, B.A., J.D.
Ralph W. Aigler Professor of Law
Vikramaditya S. Khanna, B.C.A., LL.B., S.J.D.
William W. Cook Professor of Law
Jessica D. Litman, B.A., M.F.A., J.D.,
John F. Nickoll Professor of Law
Kyle D. Logue, B.A., J.D.,
Wade H. and Dores M. McCree 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.
Joseph L. Sax Collegiate Professor of Law
Gabriel Mendlow, A.B., Ph.D., J.D.
William I. Miller, B.A., Ph.D., J.D.,
Thomas G. Long Professor of Law
Julian Davis Mortenson, A.B., J.D.
William Novak, B.A., M.A., Ph.D.
Charles F. and Edith J. Clyne Professor of Law
John A.E. Pottow, A.B., J.D.
John Philip Dawson Collegiate Professor of Law
James J. Prescott, B.A., J.D., Ph.D.
W. Nicholson Price, II, A.B., J.D., Ph.D.
Eve Brensike Primus, B.A., J.D.

Richard A. Primus, A.B., D.Phil., J.D.
Theodore J. St. Antoine Collegiate Professor of Law
Adam C. Pritchard, B.A., M.P.P., J.D.
Frances and George Skestos Professor of Law
Steven R. Ratner, A.B., M.A., J.D.,
Bruno Simma Collegiate Professor of Law
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
Veronica Santarosa, LL.B., B.A., M.A., LL.M., Ph.D.
Margo Schlanger, B.A., J.D.
Henry M. Butzel 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
Bruno Simma, Doctorate of Law
Sonja B. Starr, A.B., J.D.
Christina B. Whitman, A.B., M.A., J.D.,
Francis A. Allen Collegiate Professor of Law

Assistant Professors of Law

Maureen Carroll, B.S., J.D.
Nicolas Cornell, A.B, Ph.D., J.D.
Edward Fox, B.A., J.D., Ph.D.
Leah Litman, A.B., J.D.
Gabriel Rauterberg, B.S., J.D.

Clinical Professors of Law

Nicole Appleberry, A.B., J.D., LL.M.
Edward R. Becker, B.A., J.D.
Howard Bromberg, B.A., J.D., J.S.M.
Margaret Hannon, B.A., J.D.
Joshua Kay, B.A., M.A., Ph.D., J.D.
David A. Moran, B.S., B.A., M.A., M.S., J.D.
Mark K. Osbeck, A.B., M.A., J.D.
Paul D. Reingold, B.A., J.D.
Vivek Sankaran, B.A., J.D.
Kimberly A. Thomas, B.S., J.D.
Dana Thompson, B.S., J.D.
Frank E. Vandervort, B.A., J.D.
Nancy Vettorello, B.A., M.U.P., J.D.
Beth H. Wilensky, B.A., J.D.

Clinical Assistant Professors of Law

Matthew Andres, B.A., J.D.
Patrick Barry, B.A., J.D., Ph.D.
Elizabeth Campbell, B.A., J.D.
Mira Edmonds, B.A., J.D.
David Guenther, B.A., M.A., J.D.
Rachael Kohl, B.A., J.D.
Jessica Lefort, B.A., J.D.
Sammy Mansour, B.A., J.D.
Timothy Pinto, B.A., J.D.
Tifani Sadek, B.S., J.D.
Oday Salim, B.A., J.D., LL.M.
Amy Sankaran, B.A., J.D.
Imran Syed, A.B., J.D.

Professors from Practice

J. Phillip Adams, B.A., J.D., LL.M.
Timothy L. Dickinson, B.A., J.D., LL.M.
Jennifer Haverkamp, B.A., M.A., J.D.
Robert Hirshon, B.A., J.D.
Frank G. Millard Professor from Practice
Barbara McQuade, B.A., J.D.
Leonard Niehoff, A.B., J.D.
Michael Steinberg, B.A., J.D.
David Uhlmann, B.A., J.D.,
Jeffrey F. Liss Professor from Practice

William W. Cook Global Law Professors

Susanne Baer, LL.M.
Paul Brand, B.A., M.A., D.Phil
Christine Chinkin, LL.B., LL.M., Ph.D.
John G. H. Hudson, M.A., D.Phil
Haw-Jin Kim, B.S., Dr. Jur., LL.M.
J. Christopher McCrudden, LL.B., LL.M., D.Phil
Anne Peters, LL.M.

MICHIGAN LAW REVIEW

Vol. 118, No. 3

December 2019

EDITORIAL BOARD

Editor-in-Chief

SARAH M. McDONALD, *of Wyoming*

Managing Editor

GILLIAN MCGANN, *of New York*

Executive Articles Editor

BRYCE T. FREEMAN, *of Florida*

Articles Editors

BENJAMIN J. BIRCOLL, *of Georgia*

DONYA KHADEM, *of Wisconsin*

ELENA MALIK, *of Pennsylvania*

FARAZ SHAHIDPOUR, *of Illinois*

TOMMY ZAINO, *of Ohio*

Executive Editors

CADE C. BOLAND, *of Illinois*

HALEY DUTCH, *of Tennessee*

JONATHAN S. EDELMAN, *of Florida*

DAVID KIM, *of New Jersey*

CHAD F. LEE, *of Nevada*

CHELSEA I. RINNIG, *of California*

Executive Development Editor

ANGELA I. THEODOROPoulos, *of Illinois*

Executive Production Editor

SARAH F DU, *of Washington*

Senior Editors

EMILY M. ARNOLD, *of Pennsylvania*

PATRICK BALKE, *of Michigan*

ANDREW T. BULOVSKY, *of Wisconsin*

TYLER P. CARROLL, *of Massachusetts*

GABRIELLA M. D'AGOSTINI, *of Michigan*

LENA GANKIN, *of California*

ALEXANDRA R. GENORD, *of Michigan*

JILLIAN L. GRAY, *of Michigan*

AARON C. JONES, *of Iowa*

JOSEPH J. KIESSLING, *of Michigan*

STACIA LEE, *of Washington*

CIANAN M. LESLEY, *of Missouri*

MATTHEW S. LISCOVITZ, *of Maine*

Executive Notes Editor

JACKSON M. ERPENBACH, *of South Dakota*

Notes Editors

CARRIE J. DARDEN, *of Iowa*

DAVID L. FEGLEY, *of Maryland*

SOPHIA M. GONZALEZ, *of Florida*

CLAIRE A. SHIMBERG, *of Florida*

MAGGIE M. TURNER, *of North Carolina*

Book Review Editors

NINA C. CAHILL, *of Michigan*

ANDREW LANHAM, *of Ohio*

Executive Online Editors

TEZIRA A. ABE, *of Texas*

MONICA L. DAEGELE, *of California*

DAVID N. LOUISON, *of New York*

Associate Editors

ADAM ABDEL-MAGEED, *of Michigan*

WALTER ALLISON, *of Colorado*

JACOB ALTIK, *of New Mexico*

CASSANDRA D. ARANZADO, *of Florida*

ALEXANDER J. BAU, *of California*

MARIA GABRIELLA BORIA, *of Venezuela*

CONOR M. BRADLEY, *of New Jersey*

HOPE BRINN, *of Delaware*

ANNA BRITO, *of Texas*

LUCYANNA BURKE, *of Massachusetts*

MASSIMO B. CAPIZZI, *of New York*

ALEXANDROS T. EHRLICH, *of Michigan*

CALEB M.W. ELLIS, *of Missouri*

MELQUIADES FERNANDEZ, *of New York*

KYLE FRASER, *of Virginia*

CHRISTINA E. GEITH, *of California*

LAURA M. GEVARTER, *of Maryland*

ANGELIKA GLOGOWSKI, *of Illinois*

RENEE M. GRIFFIN, *of Illinois*

COLE M. HANSON, *of Wisconsin*

EMILY A. HARRIS, *of New Jersey*

ANDREA HOFFER, *of Michigan*

LAILA KASSIS, *of New York*

DIANE KEE, *of Wisconsin*

EMILY R. KEMPA, *of Michigan*

MOLLIE KRENT, *of Illinois*

TIMOTHY LEAKE, *of Indiana*

LOREN M. LEE, *of Michigan*

BENJAMIN P. LEMPERT, *of California*

JOSEPH L. LINDBLAD, *of Connecticut*

CRYSTAL LIU, *of Beijing*

KAT MAIL, *of New Hampshire*

KATE MARKEY, *of Michigan*

PATRICK D. McDONELL, *of California*

SOPHIA MONTGOMERY, *of Maryland*

REBECCA T. MOONITZ, *of Florida*

KEERTHANA NUNNA, *of Illinois*

DANIEL T. PARK, *of California*

JACOB PODELL, *of Michigan*

VERONICA PORTILLO HEAR, *of California*

KEAGAN POTTS, *of Minnesota*

MATTHEW N. PRESTON II, *of Indiana*

MARIEL S. RADEK, *of New Jersey*

MITCHELL RALPH, *of Texas*

BRIAN A. REMLINGER, *of California*

WAYNE M. RITTER, JR., *of Ohio*

ELIZABETH RODGERS, *of Massachusetts*

J. ALEXANDER ROWELL, *of Georgia*

HANNA RUTKOWSKI, *of Michigan*

GRIGG SCHNEIDER, *of Tennessee*

ANNA SEARLE, *of Indiana*

AUDREY SPRINGER-WILSON, *of Michigan*

DEBORAH WON, *of California*

INGRID YIN, *of Illinois*

Manager

JESSICA L. PASQUALE

Editorial Assistants

JESSICA KEELER

CONNIE M. SWINDLE

