

# Michigan Law Review

---

Volume 114 | Issue 5

---

2016

## Front Matter

Michigan Law Review

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



Part of the [Law Commons](#)

---

### Recommended Citation

Michigan Law Review, *Front Matter*, 114 MICH. L. REV. (2016).

Available at: <https://repository.law.umich.edu/mlr/vol114/iss5/4>

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](mailto:mlaw.repository@umich.edu).

# MICHIGAN LAW REVIEW

---

Vol. 114, No. 5

March 2016

## CONTENTS

### ARTICLES

- CONTROLLING PRESIDENTIAL CONTROL . . . . . *Kathryn A. Watts* 683
- ELECTION LAW FEDERALISM . . . . . *Justin Weinstein-Tull* 747

### NOTES

- UNDERBANKED: COOPERATIVE BANKING  
AS A POTENTIAL SOLUTION  
TO THE MARIJUANA-BANKING PROBLEM . . . . . *Patrick A. Tighe* 803

---

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) the author and the *Michigan Law Review* are identified; (iii) prior written notice of the use is given to the Michigan Law Review Association; and (iv) 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 School, 625 S. State St., Ann Arbor, Michigan 48109-1215; 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 Michigan Law Review, 625 S. State St., Ann Arbor, Michigan 48109-1215.

Printed at Joe Christensen, Inc., Lincoln, Nebraska 68521.

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* (19th ed. 2010) and *The Chicago Manual of Style* (16th ed. 2010). Please see our website for submission instructions.

**FIRST IMPRESSIONS**  
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 *First Impressions*, our online publication.

*First Impressions* publishes op-ed style articles 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.

*First Impressions* prefers submissions under 3,000 words and cannot accept essays over 3,500 words. 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 *First Impressions* at  
[www.michiganlawreview.org](http://www.michiganlawreview.org).

Please send questions and comments to the  
Executive Editors of *First Impressions* at  
[mlr.fi@umich.edu](mailto:mlr.fi@umich.edu).

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

2015 SURVEY OF BOOKS  
RELATING TO THE LAW  
published April 2015

The 2015 Survey presents reviews of law-related books  
published in 2012, 2013, and 2014.

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](http://www.michiganlawreview.org)

# UNIVERSITY OF MICHIGAN LAW SCHOOL

Winter 2016

## Administrative Officers

MARK SCHLISSEL, B.A., M.D., Ph.D., *President of the University*  
MARTHA E. POLLACK, A.B., M.S.E., Ph.D., *Provost and Executive Vice President for Academic Affairs*  
MARK D. WEST, B.A., J.D., *Nippon Life Professor of Law, Dean*  
DANIEL CRANE, B.A., J.D., *Frederick Paul Furth, Sr. Professor of Law,*  
*Associate Dean for Faculty and Research*  
MONICA R. HAKIMI, B.A., J.D., *Professor of Law, Associate Dean for Academic Programming*  
DAVID SANTACROCE, B.A., J.D., LL.M., *Clinical Professor of Law,*  
*Associate Dean for Experiential Education*  
DAVID H. BAUM, B.A., J.D., *Assistant Dean for Student Affairs*  
SARAH C. ZEARFOSS, A.B., J.D., *Assistant Dean and Director of Admissions*  
TODD BAILY, B.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*  
JEREMY BLOOM, B.A., J.D., *Assistant Dean for Financial Aid*

## Professors Emeriti of Law

LAYMAN E. ALLEN, A.B., M.P.A., LL.B.  
DAVID L. CHAMBERS, A.B., LL.B.,  
*Wade H. McCree, Jr. Collegiate Professor of Law*  
WHITMORE GRAY, A.B., J.D., LL.D.  
THOMAS A. GREEN, B.A., Ph.D., J.D.,  
*John Philip Dawson Collegiate Professor of Law*  
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*  
THOMAS E. KAUPER, A.B., J.D.,  
*Henry M. Butzel 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*  
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*  
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

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*  
SHERMAN J. CLARK, B.S., J.D.  
*Kirkland and Ellis Professor of Law*  
EDWARD H. COOPER,\* A.B., LL.B.,  
*Thomas M. Cooley 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., J.D., M.B.A.  
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.,  
*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*  
SAMUEL R. GROSS, A.B., J.D.,  
*Thomas G. and Mabel Long Professor of 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.

DOUGLAS A. KAHN, B.A., J.D.,  
*Paul G. Kauper Professor of Law*  
 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*  
 JAMES E. KRIER,\* B.S., J.D.,  
*Earl Warren DeLano 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*  
 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.

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*  
 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*  
 GIL SEINFELD, A.B., J.D.  
 BRUNO SIMMA,\* DOCTORATE OF LAW  
 SONJA B. STARR, A.B., J.D.  
 MARK D. WEST, B.A., J.D.,  
*Nippon Life Professor of Law*  
 CHRISTINA B. WHITMAN, A.B., M.A., J.D.,  
*Francis A. Allen Collegiate Professor of Law*

#### *Assistant Professors of Law*

KATE ANDRIAS, B.A., J.D.  
 KRISTINA DAUGIRDAS, A.B., J.D.

GABRIEL MENDLOW, A.B., PH.D., J.D.  
 VERONICA SANTAROSA, LL.B., B.A., M.A.,  
 LL.M., PH.D.

#### *Clinical Professors of Law*

ALICIA ALVAREZ, B.A., J.D.  
 EDWARD R. BECKER, B.A., J.D.  
 BRIDGETTE CARR, B.A., J.D.  
 DONALD N. DUQUETTE, B.A., 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.

NICHOLAS J. RINE, B.A., J.D.  
 VIVEK SANKARAN, B.A., J.D.  
 DAVID A. SANTACROCE, B.A., J.D., LL.M.  
 SUELLYN SCARNECCHIA, B.A., J.D.  
 KIMBERLY A. THOMAS, B.S., J.D.  
 DANA THOMPSON,\* B.S., J.D.  
 FRANK E. VANDERVORT, B.A., J.D.

#### *Clinical Assistant Professors of Law*

NICOLE APPLEBERRY, A.B., J.D., LL.M.  
 MICHAEL BLOOM, B.A., J.D.  
 HOWARD BROMBERG, B.A., J.D., J.S.M.  
 ELIZABETH CAMPBELL, B.A., J.D.  
 DEBRA CHOPP, B.A., J.D.  
 PAUL H. FALON, B.A., M.A., J.D.  
 STEVE GRAY, B.A., J.D.  
 DAVID GUENTHER, B.A., M.A., J.D.

MARGARET HANNON, B.A., J.D.  
 JOSHUA KAY, B.A., M.A., PH.D., J.D.  
 MICHAEL MURRAY, B.A., J.D.  
 BRYCE PILZ, B.S., J.D.  
 TIMOTHY PINTO, B.A., J.D.  
 AMY SANKARAN, B.A., J.D.  
 IMRAN SYED, A.B., J.D.  
 NANCY VETTORELLO, B.A., M.U.P., J.D.  
 BETH H. WILENSKY, B.A., J.D.

#### *Affiliated LS&A Faculty*

MARTHA S. JONES, B.A., J.D.

*Professors from Practice*

J. PHILLIP ADAMS, B.A., J.D., LL.M.

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

ROBERT HIRSHON, B.A., J.D.

*Frank G. Millard Professor from Practice*

LEONARD NIEHOFF, A.B., J.D.

DAVID UHLMANN, B.A., J.D.,

*Jeffrey E. Liss Faculty Development Professor  
from Practice*

*William W. Cook Global Law Professors*

PAUL BRAND, B.A., M.A., D.PHIL

CHRISTINE CHINKIN, LL.B., LL.M., PH.D.

JOHN HUDSON, M.A., D.PHIL

J. CHRISTOPHER MCCRUDDEN, LL.B., LL.M., D.PHIL

HWA-JIN KIM, B.S., DR.JUR., LL.M.



# MICHIGAN LAW REVIEW

Vol. 114, No. 5

March 2016

## EDITORIAL BOARD

*Editor-in-Chief*  
MEGAN DEMARCO, *of New Jersey*

*Managing Editor*  
SOMMER H. ENGELS, *of Massachusetts*

### *Executive Articles Editor*

MARY E. MILLER, *of Massachusetts*

### *Articles Editors*

JONATHAN L. BACKER, *of Wisconsin*  
CHRISTINE J. CHOI, *of Virginia*  
JENNIFER E. FISCHER, *of New Jersey*  
W. BENJAMIN REESE, *of Ohio*  
MATTHEW P. SAPPINGTON, *of Illinois*

### *Executive Editors*

BRIAN T. APEL, *of Idaho*  
JARRETT H. GROSS, *of Illinois*  
ROBERT G. KING, *of Maine*  
DANIEL C. MONTGOMERY, *of Ohio*  
EMMA NOTIS-McCONARTY, *of Massachusetts*  
JESSICA M. ROLL, *of New York*

### *Executive Notes Editor*

DANIELLE KALIL-MCLANE, *of California*

### *Notes Editors*

KATHERINE R. CANNY, *of New York*  
S. CHANCELLOR HILL, *of Montana*  
ANDREW C. ROBB, *of Missouri*  
RYAN S. ROTT, *of Michigan*

### *Book Review Editors*

WILLIAM H. MARTIN, *of Washington*  
JENNIFER W. STONE, *of Illinois*

### *Executive Editors of First Impressions*

DONOVAN C. McCARTY, *of Michigan*  
ANDREW XUE, *of California*

### *Executive Development Editor*

STEVEN J. ALIZIO, *of New York*

### *Executive Production Editor*

JENNIFER R. TURCHYN, *of Michigan*

### *Contributing Editors*

SARAH ALSADEN, *of Michigan*  
MICHAEL C. BAKER, *of North Carolina*  
TURNER BINKLEY, *of Michigan*  
BREANNA N. BREWER, *of California*  
JOSEPH C. CELENTINO, *of California*  
LINDSEY L. CHANDLER, *of Connecticut*  
AVI EMANUEL, *of Illinois*  
LISA A. FOLKERTH, *of Ohio*  
DANIEL FONG, *of California*  
RYAN K. HEBERT, *of Washington*  
ERIC M. KIM, *of New York*  
ALISON B. LISI, *of Michigan*

CHRISTOPHER R. MACCOLL, *of Maine*  
JARED D. MAHER, *of Ohio*  
JOAN E.G. MARTINEZ, *of the Philippines*  
JOHN C. MUHS, *of Michigan*  
KENNETH R. POWELL, *of Michigan*  
TIMOTHY H.P. SMITH, *of Ohio*  
RYAN J. SPILLE, *of Minnesota*  
PATRICK A. TIGHE, *of Arizona*  
MARTIN C. TOPOL, *of New Hampshire*  
RACHAEL L. WESTMORELAND, *of Georgia*  
ANNE R. YEARWOOD, *of New York*  
ERIC D. YFF, *of Kentucky*

### *Associate Editors*

ANDREA AMULIC, *of New York*  
ALEXIS M. BAILEY, *of Michigan*  
KATHERINE STALLINGS BAILEY, *of Illinois*  
EVAN J. BALLAN, *of New York*  
DON W. BLEVINS, *of Michigan*  
FACUNDO BOUZAT, *of Ohio*  
MADELINE E. BUCK, *of Minnesota*  
CORY M. CARONE, *of Michigan*  
DANNY S. CHAMI, *of Michigan*  
ERIN R. CHAPMAN, *of Ohio*  
DAVID J. CHO, *of New York*  
ADELE A. DANIEL, *of Kansas*  
MARIEL A. EBEN, *of Illinois*  
KEVIN J. ELLIS, *of Michigan*  
EMMA ELLMAN-GOLAN, *of New York*  
MATTHEW GEISENDORFER-LINDGREN, *of Minnesota*  
ERIKA L. GIROUX, *of Michigan*  
ASHLEY P. GRODIG, *of Maryland*  
RACHEL L. HAMPTON, *of Michigan*  
EMILY HANTVERK, *of New York*  
CHRISTIAN HOKANS, *of Michigan*  
STEPHEN J. HOUCK, *of Virginia*  
RICHARD S. HUBER, *of Florida*  
JONATHAN HUBERMAN, *of New York*  
KATIE M. HURRELBRINK, *of North Carolina*

AVERY M. JOHNSON, *of Minnesota*  
ELIZABETH H. JONES, *of California*  
ANDREW T. KRAMER, *of California*  
CLAIRE M. LALLY, *of Illinois*  
KATE F. LAMBERT, *of Michigan*  
ERICA J. LEE, *of California*  
EVAN C. LUM, *of Hawaii*  
GREG MARGOLIS, *of North Carolina*  
THOMAS F. MARTECCHINI, *of Connecticut*  
ALYSHA M. NAIK, *of New York*  
JENNA N. NEUMANN, *of Michigan*  
ALEXANDRA PEACOCK, *of California*  
MARISSA K. PERRY, *of Michigan*  
ALEXANDRA M. PETERSON, *of Illinois*  
JOSEPH M. PILLIGIAN, *of California*  
ALEXANDRA L. REED, *of Illinois*  
ANDREA L. SCANLAN, *of Idaho*  
SARAH R. SCHEINMAN, *of New York*  
SACHI SCHURICHT, *of California*  
JULIE T. SIEGEL, *of Japan*  
HALLAM STANTON, *of England*  
BROOKE THEODORA, *of California*  
MATTHEW M. WALLACE, *of California*  
CYNTHIA P. WEAVER, *of California*  
DANIEL R. WHITMAN, *of New York*

### *Manager*

JESSICA L. HANES

### *Editorial Assistants*

CATHERINE T. LEGGIERI  
BARBARA I. VIBBERT