

# University of Michigan Journal of Law Reform

---

Volume 39

---

2006

## 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*, 39 U. MICH. J. L. REFORM i (2006).

Available at: <https://repository.law.umich.edu/mjlr/vol39/iss4/1>

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

UNIVERSITY OF MICHIGAN  
**JOURNAL *of* LAW REFORM**

---

VOLUME 39 • ISSUE 4

SUMMER 2006

UNIV. OF MICH.  
DEC 15 2006  
LAW LIBRARY

UNIVERSITY OF MICHIGAN  
LAW SCHOOL  
ANN ARBOR, MICHIGAN



Cite as: 39 U. MICH. J.L. REFORM \_\_ (2006)

Copyright © 2006 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](mailto:jlrs-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 39 • 2005–2006

*Editor in Chief*  
ROBERT A. KOCH

*Managing Editor*  
LISA A. KAEGI

*Managing Article Editor*  
JASON S. WEINSTEIN

*Managing Executive Editor*  
COLLIN B. FOULDS

*Executive Note Editor*  
CAREY L. CUPRISIN

*Article Editors*  
NADA K. ABU-ISA  
KRISTEN M. BOIKE  
JESSICA L. MITCHELL  
KRYSTLE A. THOMAS

*Executive Editors*  
ELIZABETH A. GOBESKI  
LOUSENE M. HOPPE  
HEATHER L HUDSON  
JEFFREY M. SCHWAB

*Note Editors*  
MELISSA A. DEGAETANO  
CHAD R. DOOBAY  
BRYAN H. HERZBACH  
JANA LEE S. KRASCHNEWSKI  
MEREDITH A. MLYNAR

BRENDA F. ABDELALL  
AARON M. BARTELL  
JENNY CHEN  
GRACE M. CHU  
DREY A. COOLEY  
TALIA C. DUBOVI  
DAVID J. EPSTEIN  
DANIEL J. FAZIO

*Contributing Editors*  
GREGORY R. FLAX  
NICOLE M. JONES  
CYNTHIA S. KAO  
SONAH LEE  
MAURICE LOEBL  
PHILIP C. MAXWELL  
CHEROKEE D.M. MELTON

ALEXIS KUMARI NELSON  
KIMBERLY SCHRIEVER  
KARA A. SHAMY  
ESTER SHTIVELMAN  
MIA O. SOLVESSON  
MELANIE SONNENBORN  
DANIEL A. WOLF  
RICHARD J. ZITO

ZUBAIR Z. AHMAD  
MARC M. ALLON  
JEFFREY A. AMASH  
JESSICA M. ANDRADE  
JENNIFER A. BERMAN  
CHRISTOPHER D. CHAMBERS  
JOANN S. CHANG  
KATHERINE LACY CROSBY  
KYLE Y. FAGET  
DEBRA S. FALK  
THOMAS A. FERRONE  
JORDAN M. FLAKE  
JOHN A. FONSTAD  
MATTHEW B. FRIEDMAN  
MAHER H. HADDAD  
BENJAMIN M. HARELL

*Associate Editors*  
THOMAS P. HITCHCOCK  
CHRISTOPHER J. HOFFENSBERGER  
JONATHAN HUCKABAY  
CRISTIANA N. HUYNH  
JEFFREY S. JACOBI  
NEAL P. JAGTAP  
EMILY C. KELLER  
AMBER S. KOCSIS  
KATIE M. KRAJECK  
POONAM KUMAR  
KELVIN M. LAWRENCE  
BOB LEHNER  
SAMANTHA L. MAXFIELD  
JOSHUA D. MEEUWSE  
CRISTINA PARRA  
DENISE L. PASQUALE

BRETON A. PEACE  
AARON R. PETTY  
PAUL C. PORTER  
FIZA A. QURAISHI  
AARON G. RUBIN  
ALEXANDER SAKIN  
TRACY E. SCHLOSS  
MANEESH SHARMA  
BREANNE M. SHEETZ  
TARA M. SUGIYAMA  
TIMOTHY THROM  
JENNIFER D. WEENUM  
ADAM J. WIENNER  
JOSEPH K. WRIGHT  
KATE ZELL  
MICHAEL A. ZELLEN

*Manager*  
MAUREEN A. BISHOP

*Editorial Assistants*  
CATHERINE T. LEGGIERI  
MATTHEW S. REDDING  
BARBARA I. SUMMERS

## ANNOUNCEMENT OF AWARDS

### SARAH HONIGMAN MEMORIAL AWARD

This award has been given to Kate Zell, Editor in Chief of Volume 40 of the *University of Michigan Journal of Law Reform*, in recognition of her superior scholastic record, effective leadership, and outstanding contribution to the *Journal*.

### LOUIS HONIGMAN MEMORIAL AWARD

This award has been given to Lisa A. Kaegi and Jason S. Weinstein for significant contributions to the *University of Michigan Journal of Law Reform* during their junior and senior years.

### RAYMOND K. DYKEMA SCHOLARSHIP AWARD

This award has been given to John A. Fonstad and Breanne M. Sheetz for significant contributions to the *University of Michigan Journal of Law Reform* during their junior year and in recognition of qualifications that indicate the likelihood of future contributions to the legal profession.

### E. BLYTHE STASON AWARD

This award has been given to Robert A. Koch, author of the best student contribution to Volume 39 of the *University of Michigan Journal of Law Reform*.

### SCRIBES AWARD

An honorary membership in Scribes, the Society of Writers on Legal Subjects, has been given to Aaron R. Petty for an outstanding published contribution to Volume 39 of the *University of Michigan Journal of Law Reform*.





UNIVERSITY OF MICHIGAN  
**JOURNAL of LAW REFORM**

Announcement of 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  
NEAL P. JAGTAP  
BREANNE M. SHEETZ  
FIZA A. QURAIISHI

*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

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

*Contributing Editors*  
MATTHEW B. FRIEDMAN  
MAHER H. HADDAD  
BENJAMIN M. HARELL  
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

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

*Associate Editors*  
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  
LUKE W. MEIER

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

## UNIVERSITY OF MICHIGAN LAW SCHOOL

Summer 2006

### 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*  
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 Affairs*  
DAVID H. BAUM, B.A., J.D., *Assistant Dean for Student Affairs*  
CHARLOTTE H. JOHNSON, 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.  
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

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*  
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*

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., 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.

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.

RICHARD A. PRIMUS, A.B., D.PHIL., J.D.

GIL SEINFELD, A.B., J.D.

*Clinical Professors of Law*

DONALD N. DUQUETTE, 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.

PHILIP M. FROST, B.A., J.D.

MARK K. OSBECK, A.B., M.A., J.D.

ROSHUNDA PRICE, B.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.



UNIVERSITY OF MICHIGAN  
**JOURNAL of LAW REFORM**

---

VOLUME 39 • ISSUE 4

SUMMER 2006

CONTENTS

ARTICLES

- Documenting Discrimination in Voting:  
Judicial Findings Under Section 2 of the  
Voting Rights Act Since 1982  
*FINAL REPORT OF THE VOTING RIGHTS INITIATIVE,*  
*UNIVERSITY OF MICHIGAN LAW SCHOOL*  
*Ellen Katz*  
*with Margaret Aisenbrey*  
*Anna Baldwin*  
*Emma Cheuse*  
*Anna Weisbrodt* . . . . . 643
- Unconscionable Contracting for Indigent Defense:  
Using Contract Theory to Invalidate Conflict of  
Interest Clauses in Fixed-Fee Contracts  
*Jacqueline McMurtrie* . . . . . 773

NOTES

- Two Spirits, Two Eras, Same Sex:  
For a Traditionalist Perspective on Native American  
Tribal Same-Sex Marriage Policy  
*Jeffrey S. Jacobi* . . . . . 823
- How *Qui Tam* Actions Could Fight Public Corruption  
*Aaron R. Petty* . . . . . 851