

# University of Michigan Journal of Law Reform

---

Volume 33  
*Issues 1&2*

---

1999

## 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*, 33 U. MICH. J. L. REFORM i (1999).  
Available at: <https://repository.law.umich.edu/mjlr/vol33/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](mailto:mLaw.repository@umich.edu).



UNIVERSITY OF MICHIGAN

*JOURNAL OF  
LAW REFORM*

**VOLUME 33  
ISSUES 1&2  
FALL 1999  
AND  
WINTER 2000**

UNIVERSITY OF MICHIGAN  
LAW SCHOOL  
ANN ARBOR, MICHIGAN

76 208 US 1819  
XL

Cite as: 33 U. MICH. J.L. REFORM \_\_ (1999).

Copyright © 2000 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

#### 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 Managing Article Editor at the above address. Articles should generally conform to *A Uniform System of Citation* (16th ed. 1996) and *The Chicago Manual of Style* (14th ed. 1993). 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*

VOLUME 33

*Editor in Chief*

SHANNON L. KIMBALL

*Managing Editor*

NIAMH M. McEVoy

*Executive Editors*

ALISON B. MACDONALD  
KARYN A. THWAITES  
LAURA E. ZACHMAN

*Symposium Editor*

JULIA E. BLANKERTZ

*Managing Article Editor*

MARGO M. SCHNEIDMAN

*Article Editors*

ALEX L. FUGAZZI  
EILEEN M. KIERNAN  
PATRICIA M. PETROWSKI

*Contributing Editors*

THOMAS H. KLEIN  
BRYANT T. LAMER  
PHILLIP H. LEE  
MICHELLE I. LUNG  
AMAN L. McLEOD  
AMY M. MORTON  
NICOLE S. PAKKALA

*Associate Editors*

ERIN P. KAPPLER  
DANIEL J. KELLY  
MELISSA A. KERN  
JASON T. KUZMA  
WARREN METLITZKY  
REBECCA MIN  
JENNIFER K. NOWACZOK  
HUN OHM  
PURVEE K. PAREKH  
SEAN T. PEPPARD

*Executive Note Editor*

AMY REMUS SCOTT

*Note Editors*

SARA W. CLASH  
KEVIN M. HENRY  
MATTHEW B. MOCK  
MICHAEL S. PONDER

KENNETH J. PIPPIN

ANI B. SATZ  
MARK A. SMITH  
DANIEL B. STOLARSKY  
JASON J. STOVER  
JEAN L. TAYLOR  
GENA E. WILTSEK

MARILYNN E. ARMOUR  
LIZABETH A. BOYER  
MARCI J. FINKELSTEIN  
SARAH E. GERAGHTY  
BRIAN M. GINGOLD  
DANIEL E. HAROLD  
DENISE A. KIRKOWSKI

KATHERINE Y. BARNES  
MICHAEL K. BLISSENBAUGH  
JASON H. CASELL  
BEATRICE S. CHANDLER  
KRISTIN V. COLLINS  
SHAWN M. DRAPER  
GREGORY P. FELDKAMP  
JODY B. GREENBERG  
BRIAN L. HOWARD  
CHARU L. JAIN

J. PATRICK RAULERSON  
SARAH M. RILEY  
RACHEL E. SCHWARTZ  
KASSON C. STONE  
KATHARINE M. SWANSON  
CHRISTINA L. THACKER  
CATHERINE A. THOMPSON  
BONNIE H. WALKER  
DENNIS E. WESTLIND  
ADAM B. WOLF

*Business Manager*

MAUREEN A. BISHOP

*Editorial Assistants*

CATHERINE T. LEGGIERI  
MATTHEW S. REDDING

# UNIVERSITY OF MICHIGAN LAW SCHOOL

Fall 1999

## Administrative Officers

LEE C. BOLLINGER, B.S., J.D., *President of the University*  
NANCY E. CANTOR, B.A., PH.D., *Provost and Executive Vice President for Academic Affairs*  
JEFFREY S. LEHMAN, A.B., J.D., M.P.P., *Dean*  
CHRISTINA B. WHITMAN, A.B., M.A., J.D., *Associate Dean for Academic Affairs*  
SUSAN M. EKLUND, A.B., J.D., *Associate Dean*  
SUELLYN SCARNECCHIA, B.A., J.D., *Associate Dean for Clinical Affairs*  
VIRGINIA B. GORDAN, B.A., J.D., *Assistant Dean for International Programs*  
ERICA A. MUNZEL, B.A., J.D., *Assistant Dean for Admissions*  
KATHY A. OKUN, M.A., PH.D., *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*  
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.  
FRANK R. KENNEDY, A.B., LL.B., J.S.D.,  
*Thomas M. Cooley Professor of Law*  
MARVIN L. NIEHUSS, A.B., LL.B.  
WILLIAM J. PIERCE, A.B., J.D.  
BEVERLEY J. POOLEY, B.A., LL.B., LL.M., S.J.D.  
ROY F. PROFFITT, B.S., J.D., LL.M.  
JOHN W. REED, A.B., LL.B., LL.M., JUR.SC.D.,  
*Thomas M. Cooley Professor of Law*  
THEODORE J. ST. ANTOINE, A.B., J.D.,  
*James E. and Sarah A. Degan Professor of Law*  
RUSSELL A. SMITH, A.B., J.D.  
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.  
JOHN S. BECKERMAN,\* A.B., M.A., PH.D., J.D.  
LEE C. BOLLINGER, B.S., J.D.  
EVAN H. CAMINKER, B.A., J.D.  
DAVID L. CHAMBERS,\*\* A.B., LL.B.,  
*Wade H. McCree Professor of Law*  
CHRISTINE M. CHINKIN,\* LL.B., LL.M., PH.D.,  
*L. Bates Lea Visiting Professor of Law*  
LAURENCE C. CONNOR,† A.B., J.D.  
EDWARD H. COOPER, A.B., LL.B.,  
*Thomas M. Cooley Professor of Law*  
STEVEN P. CROLEY,\*\* A.B., J.D., M.A.  
HANOCH DAGAN,\* LL.B., LL.M., J.S.D.  
NORA V. DEMLEITNER,\* B.A., LL.M., J.D.  
REBECCA S. EISENBERG,\*\* B.A., J.D.,  
*Robert and Barbara Luciano Professor of Law*  
PHOEBE C. ELLSWORTH, A.B., PH.D.,  
*Kirkland & Ellis Professor of Law*  
PAULA L. ETTTELBRICK,† B.A., J.D.  
TIMOTHY L. FORT,\* J.D., PH.D.  
MERRITT B. FOX,\*\* B.A., J.D., PH.D.  
RICHARD D. FRIEDMAN, B.A., J.D., D.PHIL.  
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 Professor of Law*  
SAMUEL R. GROSS, A.B., J.D.,  
*Thomas G. and Mabel Long Professor of Law*  
JAMES C. HATHAWAY, LL.B., LL.M., J.S.D.  
MICHAEL A. HELLER, A.B., J.D.  
DONALD J. HERZOG, A.B., A.M., PH.D.  
RODERICK M. HILLS, JR., B.A., J.D.  
ROBERT L. HOWSE, B.A., LL.B., LL.M.  
WILLIAM R. JENTES,† A.B., J.D.  
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*  
JEFFREY S. LEHMAN, A.B., J.D., M.P.P.  
RICHARD O. LEMPert, A.B., J.D., PH.D.,  
*Francis A. Allen Professor of Law*  
MARK J. LOWENSTEIN,\* A.B., J.D.  
KYLE D. LOGUE, B.A., J.D.  
CATHARINE A. MACKINNON, B.A., J.D., PH.D.,  
*Elizabeth A. Long Professor of Law*  
DEBORAH C. MALAMUD, B.A., J.D.  
RONALD J. MANN, B.A., J.D.  
TAKASHI MARUTA,\* B.A., M.A., LL.M., PH.D.  
J. CHRISTOPHER MCCRUDDEN,\* LL.B., LL.M.,  
D.PHIL., *Helen L. DeRoy Visiting Professor of Law*  
WILLIAM I. MILLER, B.A., PH.D., J.D.,  
*Thomas G. Long Professor of Law*  
JEFFREY H. MIRO,† B.A., J.D., LL.M.

ROBERTA J. MORRIS,† A.B., J.D.  
CYRIL MOSCOW,† B.S., J.D.  
LYNDA J. OSWALD,\* M.B.A., J.D.  
SALLYANNE PAYTON,\*\* A.B., LL.B.  
RICHARD H. PILDES,\*\* A.B., J.D.,  
*Roy F. and Jean Humphrey Proffitt*  
*Research Professor of Law*  
DONALD H. REGAN, A.B., LL.B., B.PHIL.,  
PH.D., *William W. Bishop, Jr. Professor of Law*  
MATHIAS W. REIMANN, DR. IUR., LL.M.  
TERRANCE SANDALOW, A.B., J.D.,  
*Edson R. Sunderland Professor of Law*  
JANE S. SCHACHTER, A.B., J.D.  
CARL E. SCHNEIDER, A.B., J.D.,  
*Stillman Professor of Law*  
BRUNO E. SIMMA,\* DOCTORATE OF LAW

KENNETH W. SIMONS,\* B.A., J.D.  
A.W. BRIAN SIMPSON,\*\* B.A., M.A., D.C.L.,  
*Charles F. and Edith J. Clyne, Professor of Law*  
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 Professor of Law*  
MICHEL WAELEBROECK,† DOCTOR OF LAW, LL.M.  
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 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.

*Associate Professor of Law*

JULIE A. NICE,\* B.A., J.D.

*Assistant Professors of Law*

OMAR BEN-SHAHAR, B.A., LL.B., LL.M., PH.D.  
SHERMAN J. CLARK, B.S., J.D.  
MARTHA M. ERTMAN,\* B.A., J.D.  
DANIEL HALBERSTAM, B.S., B.A., J.D., PH.D.  
PETER J. HAMMER, B.S., B.A., J.D., PH.D.  
ELLEN D. KATZ, B.A., J.D.  
JOAN L. LARSEN,\* B.A., J.D.  
NINA A. MENDELSON, B.A., J.D.  
ADAM C. PRITCHARD, B.A., M.P.P., J.D.  
MARK D. WEST, B.A., J.D.

*Clinical Professors of Law*

DONALD N. DUQUETTE, B.A., J.D.  
PAUL D. REINGOLD,\*\* B.A., J.D.  
NICHOLAS J. RINE, B.A., J.D.  
SUELLYN SCARNECCHIA, B.A., J.D.

*Clinical Assistant Professors of Law*

LAURA B. ANDONI, B.A., J.D.  
P.E. BENNETT,† B.S., M.A., J.D.  
MELISSA BREGER, B.S., J.D.  
JULIET M. BRODIE, A.B., J.D.  
HOWARD J. BROMBERG, B.A., J.D., J.S.M.  
LORRAY S.C. BROWN, B.A., J.D.  
JULIE P. CLOSE, B.A., J.D.  
LORI L. COHEN,† B.A., J.D.  
WILLIAM L. COOPER, A.B. J.D., A.M.L.S.  
PHILIP M. FROST, B.A., J.D.  
KIMBERLY A. JAMES, A.B., J.D.  
NEIL S. KAGAN,† B.S., M.S., J.D.  
ROCHELLE E. LENTO, B.A., J.D.  
ANDREA D. LYON, B.A., J.D.  
BRIDGET M. MCCORMACK, B.A., J.D.  
GLORIA K. MILLER, B.A., M.A., J.D.  
VALERIE R. NEWMAN,† B.A., J.D.  
ANNE N. SCROTH, B.A., J.D.  
THOMAS H. SEYMOUR, B.A., M.A., J.D.  
J. TAYLOR TEASDALE,† B.A., J.D., LL.M.  
GRACE C. TONNER, B.A., J.D.

\*Visiting  
\*\*On Leave

†Adjunct

# UNIVERSITY OF MICHIGAN LAW SCHOOL

Winter 2000

## Administrative Officers

LEE C. BOLLINGER, B.S., J.D., *President of the University*  
NANCY E. CANTOR, B.A., PH.D., *Provost and Executive Vice President for Academic Affairs*  
JEFFREY S. LEHMAN, A.B., J.D., M.P.P., *Dean*  
CHRISTINA B. WHITMAN, A.B., M.A., J.D., *Associate Dean for Academic Affairs*  
SUSAN M. EKLUND, A.B., J.D., *Associate Dean*  
SUELLYN SCARNECCHIA, B.A., J.D., *Associate Dean for Clinical Affairs*  
VIRGINIA B. GORDAN, B.A., J.D., *Assistant Dean for International Programs*  
ERICA A. MUNZEL, B.A., J.D., *Assistant Dean for Admissions*  
KATHY A. OKUN, M.A., PH.D., *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*  
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.

FRANK R. KENNEDY, A.B., LL.B., J.S.D.,  
*Thomas M. Cooley Professor of Law*  
MARVIN L. NIEHUSS, A.B., LL.B.  
WILLIAM J. PIERCE, A.B., J.D.  
BEVERLEY J. POOLEY, B.A., LL.B., LL.M., S.J.D.  
ROY F. PROFFITT, B.S., J.D., LL.M.  
JOHN W. REED, A.B., LL.B., LL.M., JUR.SC.D.,  
*Thomas M. Cooley Professor of Law*  
THEODORE J. ST. ANTOINE, A.B., J.D.,  
*James E. and Sarah A. Degan Professor of Law*  
RUSSELL A. SMITH, A.B., J.D.  
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.  
ELIZABETH M. BARRY,† B.A., J.D.  
JOHN S. BECKERMAN,\* A.B., M.A., PH.D., J.D.  
G. ROBERT BLAKEY,\* A.B., J.D.  
LEE C. BOLLINGER, B.S., J.D.  
JOHN E. BOS,† B.A., J.D.  
ANDREW P. BUCHSBAUM,† A.B., J.D.  
EVAN H. CAMINKER, B.A., J.D.  
DAVID L. CHAMBERS, A.B., LL.B.,  
*Wade H. McCree Professor of Law*  
MATTHEW CHASKALSON,\* B.A., LL.B.  
LAURENCE C. CONNOR,† A.B., J.D.  
EDWARD H. COOPER,\*\* A.B., LL.B.,  
*Thomas M. Cooley Professor of Law*  
STEVEN P. CROLEY, A.B., J.D., M.A.  
GENNADY M. DANILENKO,\* DIPL. IN LAW,  
DOC. OF LAW  
SHELDON H. DANZIGER,\* B.A., PH.D.  
TIMOTHY L. DICKINSON,† A.B., J.D., LL.M.  
REBECCA S. EISENBERG,\*\* B.A., J.D.,  
*Robert and Barbara Luciano Professor of Law*  
PHOEBE C. ELLSWORTH, A.B., PH.D.,  
*Kirkland & Ellis Professor of Law*  
MERRITT B. FOX, B.A., J.D., PH.D.  
MATTHEW W. FRANK,† B.A., J.D.  
RICHARD D. FRIEDMAN, B.A., J.D., D.PHIL.  
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 Professor of Law*

SAMUEL R. GROSS, A.B., J.D.,  
*Thomas G. and Mabel Long Professor of Law*  
JAMES C. HATHAWAY,\*\* LL.B., LL.M., J.S.D.  
SHINICHIRO HAYAKAWA,\* LL.B.  
MICHAEL A. HELLER, A.B., J.D.  
DONALD J. HERZOG, A.B., A.M., PH.D.  
RODERICK M. HILLS, JR., B.A., J.D.  
ALISON E. HIRSCHER,† B.A., J.D.  
ROBERT L. HOWSE, B.A., LL.B., LL.M.  
HAROLD K. JACOBSON,\* B.A., M.A., PH.D.  
DOUGLAS A. KAHN, B.A., J.D.,  
*Paul G. Kauper Professor of Law*  
PETER KALBE,† 1.STAATSEX., M.C.L.,  
2.STAATSEX.  
YALE KAMISAR,\*\* A.B., LL.B., LL.D.,  
*Clarence Darrow Distinguished University  
Professor of Law*  
RIYAZ KANJI,† A.B., J.D.  
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*  
ROBERT R. KUEHN,\* B.A., J.D., LL.M., M.P.H.  
MARVIN KRISLOV,† M.A., J.D.  
JEFFREY S. LEHMAN, A.B., J.D., M.P.P.  
RICHARD O. LEMPert, A.B., J.D., PH.D.,  
*Francis A. Allen Professor of Law*  
BING LING,\* LL.B., LL.M.  
KYLE D. LOGUE,\*\* B.A., J.D.

KARL E. LUTZ,† B.A., J.D.  
 CATHARINE A. MACKINNON,\*\* B.A., J.D., PH.D.,  
*Elizabeth A. Long Professor of Law*  
 DEBORAH C. MALAMUD, B.A., J.D.  
 RONALD J. MANN, B.A., J.D.  
 TAKASHI MARUTA,\* B.A., M.A., LL.M., PH.D.  
 WILLIAM I. MILLER, B.A., PH.D., J.D.,  
*Thomas G. Long Professor of Law*  
 ROBERTA J. MORRIS,† A.B., J.D.  
 CYRIL MOSCOW,† B.S., J.D.  
 SALLYANNE PAYTON,\*\* A.B., LL.B.  
 RICHARD H. PILDES,\*\* A.B., J.D.,  
*Roy F. and Jean Humphrey Proffitt  
 Research Professor of Law*  
 DONALD H. REGAN, A.B., LL.B., B.PHIL.,  
 PH.D., *William W. Bishop, Jr. Professor of Law*  
 MATHIAS W. REIMANN, DR. IUR., LL.M.  
 STEVEN W. RHODES,† B.S., J.D.  
 MARK D. ROSENBAUM,† B.A., J.D.  
 TERRANCE SANDALOW,\*\* A.B., J.D.,  
*Edson R. Sunderland Professor of Law*

JANE S. SCHACHTER, A.B., J.D.  
 CARL E. SCHNEIDER, A.B., J.D.,  
*Stillman Professor of Law*  
 BRUNO E. SIMMA,\* DOCTORATE OF LAW  
 A.W. BRIAN SIMPSON, B.A., M.A., D.C.L.,  
*Charles F. and Edith J. Clyne, Professor of Law*  
 PHILIP SOPER, B.A., M.A., J.D., PH.D.,  
*James V. Campbell Professor of Law*  
 EDWARD R. STEIN,† B.A., J.D.  
 JOSEPH VINING,\*\* B.A., M.A., J.D.,  
*Harry Burns Hutchins 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 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.  
 YOZO YOKOTA\*, B.A., LL.M., LL.D.

*Associate Professor of Law*

JULIE A. NICE,\* B.A., J.D.

*Assistant Professors of Law*

OMAR BEN-SHAHAR, B.A., LL.B., LL.M., PH.D.  
 SHERMAN J. CLARK, B.S., J.D.  
 ALYSON M. COLE,\* B.A., M.A., PH.D.  
 MARTHA M. ERTMAN,\* B.A., J.D.  
 DANIEL HALBERSTAM, B.S., B.A., J.D., PH.D.  
 PETER J. HAMMER, B.S., B.A., J.D., PH.D.

ELLEN D. KATZ, B.A., J.D.  
 JOAN L. LARSEN,\* B.A., J.D.  
 NINA A. MENDELSON, B.A., J.D.  
 OSAMU MORITA,\* PH.D., J.D.  
 ADAM C. PRITCHARD, B.A., M.P.P., J.D.  
 MARK D. WEST, B.A., J.D.

*Clinical Professors of Law*

DONALD N. DUQUETTE, B.A., J.D.  
 PAUL D. REINGOLD,\*\* B.A., J.D.

NICHOLAS J. RINE, B.A., J.D.  
 SUELLYN SCARNECCHIA, B.A., J.D.

*Clinical Assistant Professors of Law*

LAURA B. ANDONI, B.A., J.D.  
 P.E. BENNETT,† B.S., M.A., J.D.  
 MELISSA BREGER, B.S., J.D.  
 JULIET M. BRODIE, A.B., J.D.  
 HOWARD J. BROMBERG, B.A., J.D., J.S.M.  
 LORRAY S.C. BROWN, B.A., J.D.  
 JULIE P. CLOSE, B.A., J.D.  
 LORI L. COHEN,† B.A., J.D.  
 WILLIAM L. COOPER, A.B. J.D., A.M.L.S.  
 PHILIP M. FROST, B.A., J.D.  
 KIMBERLY A. JAMES, A.B., J.D.

NEIL S. KAGAN,† B.S., M.S., J.D.  
 ROCHELLE E. LENTO, B.A., J.D.  
 ANDREA D. LYON, B.A., J.D.  
 BRIDGET M. MCCORMACK, B.A., J.D.  
 GLORIA K. MILLER, B.A., M.A., J.D.  
 VALERIE R. NEWMAN,† B.A., J.D.  
 ANNE N. SCROTH, B.A., J.D.  
 THOMAS H. SEYMOUR, B.A., M.A., J.D.  
 J. TAYLOR TEASDALE,† B.A., J.D., LL.M.  
 GRACE C. TONNER, B.A., J.D.

*Instructor*

MARGARET A. LEARY,† B.A., M.A., J.D.

\* Visiting  
 \*\* On Leave

† Adjunct



UNIVERSITY OF MICHIGAN

VOLUME 33  
ISSUES 1 & 2  
FALL 1999  
AND  
WINTER 2000

JOURNAL OF  
LAW REFORM

CONTENTS

ARTICLES

- When Balance and Fairness Collide:  
An Argument for Execution Impact  
Evidence in Capital Trials  
*Wayne A. Logan* . . . . . 1
- Financing Plaintiffs' Lawsuits: An Increasingly  
Popular (and Legal) Business  
*Susan Lorde Martin* . . . . . 57
- Life After *Adarand*: What Happened to  
the *Metro Broadcasting* Diversity Rationale  
for Affirmative Action in  
Telecommunications Ownership?  
*Leonard M. Baynes* . . . . . 87

NOTES

- Increasing Consumer Power in the Grievance  
and Appeal Process for Medicare HMO Enrollees  
*Kenneth J. Pippin* . . . . . 133
- What Money Cannot Buy: A Legislative  
Response to C.R.A.C.K.  
*Adam B. Wolf* . . . . . 173