CONTENTS

ARTICLES

Reasoning About the Irrational: The Roberts Court and the Future of Constitutional Law

H. Jefferson Powell 217

The Two Versions of Rational-Basis Review and Same-Sex Relationships

Robert C. Farrell 281

NOTES & COMMENTS

Eastwood’s Answer to Alejandre’s Open Question: The Economic Loss Rule Should Not Bar Fraud Claims

Katherine Heaton 331

Clearing the Air: Ordinary Negligence in Take-Home Asbestos Exposure Litigation

Rebecca Leah Levine 359

Open for Trouble: Amending Washington’s Open Public Meetings Act to Preserve University Patent Rights

Vladimir Lozan 393
University of Washington School of Law 2010–2011

OFFICERS OF ADMINISTRATION
Phyllis M. Wise, B.A., Ph.D., Interim President of the University
Kellye Y. Testy, B.A., J.D., Dean, James W. Mifflin University Professor of Law
Stephanie Cox, Assistant Dean for Advancement
Samuel Donaldson, Associate Dean for Academic Administration
Elizabeth Ford, Assistant Dean
Penny A. Hazelton, B.A., J.D., M.L.L., Associate Dean for Library & Computing Services, Professor of Law
Mary Hotchkiss, B.A., M.S.L.S., J.D., LL.M., Associate Dean for Students and Academic Life, Senior Law Lecturer
Lisa Kelly, B.A., J.D., Associate Dean, Bobbe & Jonathan Bridge Professorship in Child & Family Advocacy
Naomi Sanchez, B.S., M.S.W., Ed.D., Assistant Dean for Professional and Leadership Development
Michele Storms, Assistant Dean for Public Service

FACULTY EMERITI
William R. Andersen, B.S.L., LL.B., LL.M.
William T. Burke, B.S., J.D., J.S.D.
Robert L. Fletcher, A.B., LL.B.
Roland L. Hjorth, A.B., LL.B.
John M. Junker, B.A., J.D.
John R. Price, A.B., LL.B.
Roy L. Prosterman, B.A., J.D.
Molly C. Rombauer, B.A., J.D.
Frank W. Smith, B.A., J.D., LL.M.
William B. Stoebuck, B.A., M.A., J.D., S.J.D.
Philip A. Trautman, B.A., J.D.

FACULTY OF LAW
Craig H. Allen, B.S., J.D., LL.M., Judson Falknor Professor of Law
Kimberly D. Ambrose, B.A., J.D., Law Lecturer
Helen A. Anderson, B.A., J.D., Assistant Professor of Law
Robert T. Anderson, B.A., J.D., Associate Professor of Law, Director of Native American Law Center
Thomas R. Andrews, B.A., M.A., J.D., Professor of Law
Robert H. Aronson, B.A., J.D., Betts, Patterson & Mines Professor of Law
Karen E. Boxx, B.A., J.D., Associate Professor of Law
Steve P. Calandrello, B.A., J.D., Charles I. Stone Professor of Law
Thomas D. Cobb, B.A., M.A., A.J.D., Senior Law Lecturer
Molly M. Cohen, B.A., J.D., Law Lecturer
William Covington, B.A., J.D., Professor of Law
Samuel A. Donaldson, B.A., J.D., LL.M., Professor of Law
Signe Dortich, B.A., J.D., Law Lecturer, Director of Immigration Law Clinic
Dwight J. Drake, B.S., J.D., Associate Professor of Law
Jonathan A. Eddy, B.A., J.D., Professor of Law, Director of Asian Law Center, Manager of Afghan Legal Educators Project
Mary D. Fan, B.A., J.D., MPhil., Assistant Professor of Law
Julia Gold, B.A., J.D., Senior Law Lecturer, Director of Mediation Clinic
Robert W. Gomulkiewicz, B.A., M.A., J.D., Professor of Law, Director of Law, Technology & Arts Group
James H. Hardisty, A.B., LL.B., Professor of Law
Penny A. Hazelton, B.A., J.D., M.L.L., Professor of Law
Gregory A. Hicks, B.A., J.D., Professor of Law
Roland L. Hjorth, A.B., LL.B., Dean Emeritus, Garvey Schubert Barer Professor of Law
Mary A. Hotchkiss, B.A., M.S.L.S., J.D., LL.M., Senior Law Lecturer
Maureen A. Howard, B.A., J.D., Assistant Professor of Law, Director of Trial Advocacy Program
Linda S. Hume, B.A., J.D., Professor of Law
Stewart M. Jay, A.B., J.D., Professor of Law
Sarah Kaltzousis, B.S., M.Ed., J.D., Law Lecturer
Yong-Sung (Jonathan) Kang, B.A., J.D., Assistant Professor of Law
Sylvia Kang’ara, LL.B., LL.M., S.J.D., Assistant Professor of Law
Lisa Kelly, B.A., J.D., Professor of Law, Bobbe & Jonathan Bridge Professorship in Child & Family Advocacy, Director of Children & Youth Advocacy Clinic
Alan Kirtley, B.A., J.D., Associate Professor of Law
Anita K. Krug, B.A., M.A., J.D., Ph.D., Assistant Professor of Law
Richard O. Kummert, B.S., C.P.A., M.B.A., LL.B., D. Wayne & Anne Gittinger Professor of Law
Patricia C. Kuzizer, B.A., M.D., J.D., Charles I. Stone Professor of Law, Director of Multidisciplinary Initiatives
Clark B. Lombardi, B.A., M.A., J.D., Ph.D., Associate Professor of Law, Adjunct Associate Professor of Law in International Affairs
Deborah Maranville, B.A., J.D., Professor of Law, Director of Clinical Law Program, Director of Unemployment Compensation Clinic
Anna C. Mastroianni, B.S., B.A., J.D., M.P.H., Associate Professor of Law
Kathleen M. McGinnis, B.A., J.D., Senior Law Lecturer
Jacqueline McMurtrie, B.G.S., J.D., Associate Professor of Law, Director of Innocence Project Northwest

iv
Theodore A. Myhre, B.A., M.A., M.A., J.D., Law Lecturer
Paul Steven Miller, B.A., J.D., Henry M. Jackson Professor of Law, Director of University of Washington Disability Studies Program
Joel M. Ngugi, LL.B., LL.M., S.J.D., Associate Professor of Law
Peter Nicolas, B.A., M.P.P., J.D., Jeffrey & Susan Brotman Professor of Law
Sean O’Connor, B.A., M.A., J.D., Associate Professor of Law, Director of Law, Technology & Arts Group, Director of Entrepreneurial Law Clinic
Kathleen O’Neill, B.A., J.D., Associate Professor of Law
Rafael Pardo, B.A., J.D., Professor of Law
Anita Ramasastri, B.A., M.A., J.D., D. Wayne & Anne Gittinger Professor of Law, Director for Journals and Conferences, Law, Technology, & Arts Group
Beth Rivin, B.A., M.D., M.P.H., Research Associate Professor of Law, Director of Global Health & Justice Project
William H. Rodgers, B.A., J.D., Stimson Bullitt Professor of Environmental Law
Sallie Thieme Sanford, B.A., J.D., Acting Assistant Professor of Law
Eric Schnappr, B.A., M.A., B.Phil., LL.B., Professor of Law
Scott A. Schumacher, B.A., J.D., LL.M., Associate Professor of Law, Director of Federal Tax Clinic, Director of Graduate Program in Taxation
Toshiko Takenaka, B.A., LL.M., Ph.D., W. Hunter Simpson Professor of Law, Director of CASRIP, Director of Law, Technology & Arts Group
Kathryn Watts, B.S., J.D., Assistant Professor of Law
Ron J. Whitener, B.A., J.D., Assistant Professor of Law, Director of Tribal Court Criminal Defense Clinic
Brenda Williams, B.A., M.P.A., J.D., Senior Law Lecturer
June K. Winn, B.Sc., J.D., Charles I. Stone Professor of Law, Director for International Programs, Law, Technology & Arts Group
Louis E. Wolcher, B.A., J.D., Charles I. Stone Professor of Law

ADJUNCT, AFFILIATE, AND VISITING FACULTY
Gad Barzilai, B.A., LL.S., LL.B., M.A., Ph.D., Adjunct Professor of Law
Andrew Benjamin, J.D., Ph.D., Affiliate Professor of Law
Douglas Branson, Visiting Professor of Law
Ronald K.L. Collins, B.A., J.D., Visiting Professor of Law, Harold S. Shefelman Scholar
Nancy S. Jecker, B.A., M.A., M.A., Ph.D., Adjunct Professor of Law
John A. Miller, B.A., J.D., LL.M., Visiting Professor of Law
Steven G. Olswang, B.A., J.D., Adjunct Professor of Law
Saadia Pekkanen, B.A., M.I.A., Ph.D., M.S.L., Adjunct Associate Professor of Law
Elizabeth Porter, B.A., M.Ed., J.D., Visiting Assistant Professor of Law
Hugh D. Spitzer, B.A., J.D., LL.M., Affiliate Professor of Law
Richard O. Zerbe, Jr., A.B., Ph.D., Adjunct Professor of Law

GALLAGHER LAW LIBRARY STAFF
Crystal Alberthal, Library Specialist, Serials
Karen Ballard, B.A., Library Specialist, Cataloging
Rob Britt, B.A., M.A., M.A., Japanese Legal Materials Specialist, East Asian Law
Theresa Chemnick, Assistant to the Director
Melia Cossette, B.A., J.D., M.L.S., CILP Co-Editor
Judy Davis, B.A., M.L.S., Librarian, Resource Sharing
Flora Escarez, B.S., Library Specialist, Cataloging
Lori Fossum, M.A., M.A., J.D., Librarian, Reference
Jonathan Franklin, A.B., A.M., J.D., Associate Law Librarian
Sharon Hall, Library Specialist Supervisor, Cataloging
Tricia Hart, B.A., M.L.S., Librarian, Cataloging
Peggy Jarrett, B.A., M.S.L.I.S., Librarian, Collection Development & Reference
Richard Jost, B.A., M.A., Information Systems Coordinator
Chooing Kim, B.A., Fiscal Specialist
Kaden Mack, B.A., Library Tech, Circulation
Nancy McMurrer, B.A., J.D., M.L.S., Librarian, Reference
Craig Morley, B.A., Library Materials Conservation Supervisor, Serials
Ann Nez, B.A., M.L.S., Technical Services Coordinator
Vickie Northington, B.A., Library Supervisor, Circulation
Cheryl Nyberg, B.A., M.S.L.S., Librarian, Coordinator of Reference Services
Chris Perdue, B.A., Library Tech, Serials