Washington Law Review

Volume 86 | Number 2

5-1-2011

Contents

anon

Follow this and additional works at: https://digitalcommons.law.uw.edu/wlr

Recommended Citation

anon, Table of Contents, *Contents*, 86 Wash. L. Rev. i (2011). Available at: https://digitalcommons.law.uw.edu/wlr/vol86/iss2/1

This Table of Contents is brought to you for free and open access by the Law Reviews and Journals at UW Law Digital Commons. It has been accepted for inclusion in Washington Law Review by an authorized editor of UW Law Digital Commons. For more information, please contact lawref@uw.edu.

WASHINGTON LAW REVIEW

VOLUME 86, NUMBER 2, MAY 2011

Published by Students of the University of Washington School of Law

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

Copyright © 2011, Washington Law Review Association. Except as otherwise provided, the author of each article in this issue has granted permission for copies of that article to be made for classroom use, provided that (1) copies are distributed at or below cost, (2) the author and journal are identified, (3) proper notice of copyright is affixed to each copy, and (4) the Washington Law Review Association is notified of the use.

WASHINGTON LAW REVIEW (ISSN 0043-0617) is published quarterly by students of the University of Washington School of Law. Periodicals postage paid at Seattle, Washington, and additional mailing offices.

POSTMASTER: Send address changes to:

Frances Johnson Washington Law Review University of Washington School of Law 4000 15th Ave NE William H. Gates Hall Box 353025 Seattle, Washington 98195

SUBSCRIPTION INFORMATION: Subscription price for Vol. 86: \$41.06 per year in Washington State (tax included), \$37.50 per year in the United States, and \$47.50 elsewhere. Single issue: \$12.00 (order directly from Washington Law Review Business Office). Subscriptions are renewed automatically unless the business office is notified of cancellation. No refunds will be issued.

BACK ISSUES: See advertisement at the back of this issue.

SUBSCRIPTION & BACK ISSUE CORRESPONDENCE:

Frances Johnson Washington Law Review University of Washington Gallagher Law Library William H. Gates Hall Box 353025 Seattle, Washington 98195 e-mail: franj@u.washington.edu

MANUSCRIPTS: WASHINGTON LAW REVIEW invites the submission of unsolicited manuscripts. Manuscripts should be double-spaced with double-spaced footnotes. WASHINGTON LAW REVIEW prefers the use of gender-neutral language.

CITATION FORM: For Volume 86, Washington Law Review adopts the citation form of The Bluebook: A Uniform System of Citation (19th ed. 2010).

EDITORIAL CORRESPONDENCE: Editor-in-Chief

Washington Law Review University of Washington School of Law William H. Gates Hall Box 353025

Seattle, Washington 98195 e-mail: wlr@u.washington.edu

Member, National Conference of Law Reviews

WORLD WIDE WEB HOME PAGE: http://www.law.washington.edu/WLR

WASHINGTON LAW REVIEW

VOLUME 86 2011

2010-2011 EDITORIAL BOARD

Editor-in-Chief JORDAN TALGE

Chief Articles Editor
SARA LEVERETTE

Executive Articles Editor
CALE EHRLICH

Associate Editor-in-Chief JACOB BROWN

Articles Editors
M DUNNING
WILLIAM HENRY
VLADIMIR LOZAN
BRANDON YOUNG

Chief Managing Editor
AMY DE SANTIS

Executive Managing Editor
WILLIAM D. RICHARD

Associate Editor-in-Chief AUBRI GOLDSBY

Managing Editors
KATHLEEN ASQUITH
JUSTIN J. ANDREWS
MOLLY LAMB
JACQUE ST. ROMAIN
DANIEL STALLINGS
JASON VOSS
ERIK WALTERS

Chief Comments Editor
PATRICK LONEY

Executive Comments Editor
KELLY SHERIDAN

Associate Editor-in-Chief MICHAEL PIROG

Comments Editors
KATHERINE HEATON
NOEL HORTON
WILLIAM MILLER
CONNOR SHIVELY
SARAH WASHBURN

EDITORIAL STAFF

JEFF BARNUM
JULIAN BEATTIE
ANDREA BRADFORD
MICHAEL FELTON
JEREMY GELMS
GREGORY GEORGE
MICHAEL KIM
KATHERINE KIRKLIN

LAURA EPLER KLEIN
REBECCA LEVINE
BRADLEY LEWIS
LEE MARCHISIO
RYAN MCROBERT
ERIN MOODY
MARK ORTHMANN
ISHAM REAVIS

DAVID RUBENSTEIN
ANDREW RUSSELL
SOFIA SALAZAR-RUBIO
VICTORIA STEPHANOVA
MARY SWIFT
MATTHEW VIERS
TOM WYRWICH
ANDREW ZELLERS

WASHINGTON LAW REVIEW ASSOCIATION FACULTY BOARD

CRAIG ALLEN
THOMAS ANDREWS

KAREN BOXX GREGORY HICKS LINDA HUME KATHY MCGINNIS

BUSINESS STAFF

Faculty Business Manager PENNY HAZELTON Faculty Adviser
STEVE CALANDRILLO

Business Office Jonathan Franklin Fran Johnson

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 Huston, B.A., J.D., LL.M.

John M. Junker, B.A., J.D.

Richard O. Kummert, B.S., C.P.A., M.B.A., LL.B.

John R. Price, A.B., LL.B.

Roy L. Prosterman, B.A., J.D.

Marjorie D. Rombauer, B.A., J.D.

Charles Z. Smith, B.S., 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. Calandrillo, B.A., J.D., Charles I. Stone Professor of Law

Thomas D. Cobb, B.A., M.A., M.A., J.D., Senior Law Lecturer

Molly M. Cohan, B.A., J.D., Law Lecturer

William Covington, B.A., J.D., Assistant Professor of Law

Samuel A. Donaldson, B.A., J.D., LL.M., Professor of Law

Signe Dortch, 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 Afghanistan 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 Kaltsounis, 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. Kuszler, 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

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 Ramasastry, 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 Schnapper, 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

Michael E. Townsend, B.A., M.A., Ph.D., J.D., Associate Professor of Law

Lea B. Vaughn, A.B., J.D., Professor of Law

Walter J. Walsh, B.C.L., LL.M., S.J.D., Associate Professor of Law

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

Jane 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

Dongsheng Zang, LL.B., LL.M., LL.M., S.J.D., Assistant 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

Sharan E. Brown, B.A., M.A., J.D., Ed.D., Adjunct Research Associate 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

Michael McCann, B.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., Ph.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

Susan Whiting, B.A., Ph.D., Adjunct Associate 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.I.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., M.A., J.D., Librarian, Reference

Jonathan Franklin, A.B., A.M., J.D., M.L.S., 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

Fran Johnson, Fiscal Specialist, Washington Law Review, Pacific Rim Law & Policy Journal

Richard Jost, B.A., M.A., M.A., Information Systems Coordinator

Choong 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

Jessica Moskowitz, B.A., M.L.I.S., Library Tech, Circulation

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

Nikki Pike, Information Specialist, CILP
Patty Roberts, B.A., Library Tech Lead, Evening Circulation Supervisor
Tania Schriwer, B.S., J.D., M.L.I.S., CILP Co-Editor
Dave Tawatao, Senior Computer Specialist
Reba Turnquist, B.A., M.L.S., Librarian, Collection Development
Rachel Turpin, B.A., J.D., M.L.I.S., CILP Co-Editor
Mary Whisner, B.A., J.D., M.L.S., Librarian, Reference
Quan (John) Zhang, B.A., M.A., Ph.D., Library Specialist, Acquisitions