

Washington Law Review

Volume 88 | Number 1

3-1-2013

Contents

anon

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

Recommended Citation

anon, Table of Contents, *Contents*, 88 Wash. L. Rev. i (2013).

Available at: <https://digitalcommons.law.uw.edu/wlr/vol88/iss1/1>

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 cnyberg@uw.edu.

WASHINGTON LAW REVIEW

VOLUME 88, NUMBER 1, MARCH 2013

Published by Students of the
University of Washington School of Law

CONTENTS

CASE STUDY AND COMMENTARIES

The Landmark that Wasn't: A First Amendment Play in Five Acts

Lee Levine & Stephen Wermiel 1

Dun & Bradstreet Revisited—A Comment on Levine and Wermiel

Scott L. Nelson 103

A Tale of Two *Greenmoss Builders*

Robert M. O'Neil 125

Dun & Bradstreet v. Greenmoss Builders as an Example of Justice Powell's Approach to Constitutional Jurisprudence

Paul M. Smith 143

RESPONSE AND REJOINDER

The *Miranda* Warning

Frederick Schauer 155

A Rejoinder to Professor Schauer's Commentary

Yale Kamisar 171

ARTICLE

Governing Financial Markets: Regulating Conflicts

Kristin N. Johnson 185

COMMENTS

Controlling the Prosecution of Bribery: Applying Corporate Law Principles to Define a “Foreign Official” in the Foreign Corrupt Practices Act

Kayla Feld 245

The Lesson of the 2011 NFL and NBA Lockouts: Why Courts Should Not Immediately Recognize Players’ Union Disclaimers of Representation

Ross Siler 281

Copyright © 2013, 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
Gallagher Law Library
William H. Gates Hall
Box 353025
Seattle, Washington 98195

SUBSCRIPTION INFORMATION: Subscription price for Vol. 88: \$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 88, 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 88
2013

2012–2013 EDITORIAL BOARD

	<i>Editor-in-Chief</i> JAMES WENDELL	
<i>Associate Editor-in-Chief</i> DAVID CRAWFORD	<i>Associate Editor-in-Chief</i> TIMOTHY REYNOLDS	<i>Associate Editor-in-Chief</i> LAURA ZANZIG
<i>Chief Articles Editor</i> THOMAS HUDSON	<i>Chief Managing Editor</i> KATHLEEN KLINE	<i>Chief Comments Editor</i> MARK TYSON
<i>Executive Articles Editor</i> JESSE WOO	<i>Executive Managing Editor</i> CLIFTON STRATTON	<i>Executive Comments Editor</i> JOHN YIP
<i>Articles Editors</i> JOSEPHINE ENNIS ELIZABETH MUSTIN REBECCA THOMPSON KIEL WILLMORE	<i>Managing Editors</i> NIKKI CARSLEY STEPHANIE CURRY KAYLA FELD JUSTIN GILLETTE JOSHUA HANSEN-KING KEVIN NAUD ANGELA NOAKES ROSS SILER	<i>Comments Editors</i> JEFF DEGROOT JEANINE LUTZENHISER JAY SCHULKIN OLIVER STIEFEL

EDITORIAL STAFF

JONATHAN COLLINS PETER DOLAN BRADY DOUGLAS ARTHUR MICHAEL EDWARDS BRIAN EPLEY SCOTT FORBES GLENDA GERTZ WILLIAM GOODLING	BROOKE HOWLETT DAVID LAI STEPHANIE LIU NIKI MORRISON ADAM MURRAY TONY NGUYEN CAITLIN PARK LAURA POWELL	DANIEL RICHARDS BROOKE SARGEANT KATHERINE SEABRIGHT SAMUEL SEAL JENNA SMITH MATTHEW SOUZA EMILY TOLER LAUREN WATTS
---	---	---

WASHINGTON LAW REVIEW ASSOCIATION FACULTY BOARD

CRAIG ALLEN THOMAS ANDREWS	KAREN BOXX	LINDA HUME KATHY MCGINNIS
-------------------------------	------------	------------------------------

BUSINESS STAFF

<i>Faculty Business Manager</i> PENNY HAZELTON	<i>Faculty Adviser</i> ROBERT GOMULKIEWICZ	<i>Business Office</i> JONATHAN FRANKLIN FRAN JOHNSON
---	---	---

University of Washington School of Law 2012–2013

OFFICERS OF ADMINISTRATION

Michael Young, B.A., J.D., President of the University
Kellye Y. Testy, B.A., J.D., Dean, James W. Mifflin University Professor of Law
Patricia Kuszler, M.D., J.D., Associate Dean for Academic Administration, Professor of Law
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 & Academic Life, Senior Law Lecturer
Kathryn Watts, B.S., J.D., Associate Dean for Research & Faculty Development, Associate Professor of Law
Stephanie Cox, B.A., Assistant Dean for Advancement
Michelle Gonzalez, J.D., M.P.A., Assistant Dean for Professional & Leadership Development
Michele Storms, B.A., J.D., Assistant Dean for Public Service

FACULTY EMERITI

William R. Andersen, B.S.L., LL.B., LL.M.
Robert H. Aronson, B.A., J.D.
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.
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., Senior Law Lecturer
Helen A. Anderson, B.A., J.D., Associate Professor of Law
Robert T. Anderson, B.A., J.D., Professor of Law, Director of Native American Law Center
Thomas R. Andrews, B.A., M.A., J.D., Professor of Law
Karen E. Boxx, B.A., J.D., Professor of Law
Steve P. Calandrillo, B.A., J.D., Charles I. Stone Professor of Law
Ryan Calo, B.A., J.D., Assistant 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
Ronald K.L. Collins, B.A., J.D., Acting Professor of Law, Harold S. Shefelman Scholar
William Covington, B.A., J.D., Assistant 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., M.Phil., Associate Professor of Law
Julia Gold, B.A., J.D., Principal 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
Mary A. Hotchkiss, B.A., M.S.L.S., J.D., LL.M., Senior Law Lecturer
Maureen A. Howard, B.A., J.D., Associate 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., Miller, Pendelton Endowed 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
Sanne Knudsen, B.S., M.S., J.D., Assistant Professor of Law
Anita K. Krug, B.A., M.A., J.D., Ph.D., Assistant 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., Professor of Law
Shannon McCormack, B.A., J.D., LL.M., Assistant 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

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., Professor of Law, Director of Law, Technology & Arts Group, Director of Entrepreneurial Law Clinic
 Kathleen O'Neill, B.A., J.D., Professor of Law
 Elizabeth Porter, B.A., M.Ed., M.A., J.D., Assistant Professor of Law
 Anita Ramasastry, B.A., M.A., J.D., D. Wayne & Anne Gittinger Professor of Law, Director for Journals & 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
 Zahr Said, B.A., J.D., Ph.D., Assistant Professor of Law
 Sallie Thieme Sanford, B.A., J.D., Assistant Professor of Law
 Eric Schnapper, B.A., M.A., B.Phil., LL.B., Betts, Patterson & Mines 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
 Kellye Y. Testy, B.A., J.D., Dean, James W. Mifflin University Professor of Law
 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., Garvey, Schubert & Barer Associate Professor of Law
 Ron J. Whitener, B.A., J.D., Senior Law Lecturer, Director of Tribal Court Criminal Defense Clinic
 Brenda Williams, B.A., M.P.A., J.D., 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., Associate Professor of Law
 David Ziff, A.B., J.D., Law Lecturer

ADJUNCT AND VISITING FACULTY

William Bailey, B.A., J.D., Professor from Practice
 Matt Barreto, B.S., M.S., Ph.D. Adjunct Associate Professor, Political Science
 Gad Barzilai, B.A., LL.S., LL.B., M.A., Ph.D., Adjunct Professor of Law
 Katherine Beckett, B.A., M.A., Ph.D., Adjunct Professor, Law Societies and Justice Program, Sociology
 Andrew Benjamin, J.D., Ph.D., Affiliate Professor of Law
 Sharan E. Brown, B.A., M.A., J.D., Ed.D., Adjunct Research Associate Professor of Law
 Denise Dudzinski, Ph.D., MTS, Adjunct Professor, Bioethics and Humanities
 Carl Goodman, B.B.A., J.D., LL.M., Visiting Professor, Georgetown University
 Michael Hatfield, B.A., M.A., J.D., Visiting Professor
 Thomas Hazlet, B.S., Pharm.D., Dr.P.H., Adjunct Associate Professor, Pharmacy
 Nancy S. Jecker, B.A., M.A., M.A., Ph.D., Adjunct Professor of Law
 Lisa Marshall Manheim, B.A., J.D., Visiting Assistant Professor of Law
 Michael McCann, B.A., M.A., Ph.D., Adjunct Professor of Law
 Arzoo Osanloo, B.A., J.D., Ph.D., Adjunct Associate Professor of Law, Law, Societies and Justice Program
 Saadia Pekkanen, B.A., M.I.A., Ph.D., M.S.L., Adjunct Associate Professor of Law
 Stephen A. Rosenbaum, B.A., J.D., M.P.P., Visiting Senior Lecturer
 Clare Ryan, B.S., M.S., Ph.D., Adjunct Professor, School of Environmental and Forest Sciences
 Hugh D. Spitzer, B.A., J.D., LL.M., Visiting Professor of Law
 Anna Tolin, B.A., J.D., Supervising Attorney and Visiting Lecturer
 Susan Whiting, B.A., Ph.D., Adjunct Associate Professor of Law
 Todd Wildermuth, B.S., M.S., Ph.D., Scholar in Residence
 Richard O. Zerbe, Jr., A.B., Ph.D., Adjunct Professor of Law

GALLAGHER LAW LIBRARY STAFF

Crystal Alberthal, B.A., Library Specialist, Serials
 Jessica Anderson, B.A., Library Tech, Circulation
 Karen Ballard, B.A., Library Specialist, Cataloging
 Rob Britt, B.A., M.A., M.A., Japanese Legal Materials Specialist, East Asian Law
 Theresa Chemnick, B.A., Assistant to the Director
 Judy Davis, B.A., M.L.S., Librarian, Resource Sharing
 Flora Escarez, B.S., Library Specialist, Cataloging
 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
 Ingrid Holmlund, A.B., J.D., M.L.I.S., CILP Co-Editor
 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
 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
Nikki Pike, Information Specialist, CILP
Patty Roberts, B.A., Library Tech Lead, Evening Circulation Supervisor
Dave Tawatao, Senior Computer Specialist
Trinie Thai-Parker, B.Sc., LL.M., LL.B., M.S.L.I.S., Librarian, Reference
Reba Turnquist, B.A., M.L.S., Librarian, Collection Development
Michael Umberger, B.A., J.D., M.L.I.S., Librarian, Reference
Mary Whisner, B.A., J.D., M.L.S., Librarian, Reference
Alena Wolotira, B.A., J.D., M.L.I.S., Librarian, Reference; CILP Co-Editor
Alysha Yagoda, B.A., J.D., CILP Co-Editor
Quan (John) Zhang, B.A., M.A., Ph.D., Library Specialist, Acquisitions