

Washington Law Review

Volume 91 | Number 1

3-1-2016

Contents

anon

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

Recommended Citation

anon, Table of Contents, *Contents*, 91 Wash. L. Rev. i (2016).

Available at: <https://digitalcommons.law.uw.edu/wlr/vol91/iss1/6>

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 91, NUMBER 1, MARCH 2016

Published by Students of the
University of Washington School of Law

CONTENTS

ARTICLES

- Hospital Mergers and Economic Efficiency
*Roger D. Blair, Christine Piette Durrance &
D. Daniel Sokol* 1
- Buyers in the Baby Market: Toward a Transparent
Consumerism
June Carbone & Jody Lyneé Madeira 71
- Why a “Large and Unjustified” Payment Threshold Is Not
Consistent with *Actavis*
Michael A. Carrier 109
- The Law, Economics, and Medicine of Off-Label
Prescribing
William S. Comanor & Jack Needleman 119
- A Flexible Health Care Workforce Requires a Flexible
Regulatory Environment: Promoting Health Care
Competition Through Regulatory Reform
Andrew I. Gavil & Tara Isa Koslov 147
- Navigating Through the Fog of Vertical Merger Law: A
Guide to Counselling Hospital-Physician Consolidation
Under the Clayton Act
Thomas L. Greaney & Douglas Ross 199
- Buyer Power and Healthcare Prices
John B. Kirkwood 253

Consume or Invest: What Do/Should Agency Leaders
Maximize?

William E. Kovacic & David A. Hyman 295

COMMENTS

“No Handicapped People Allowed”: The Need for Objective
Accessibility Standards Under the Fair Housing Act

Michael J. Jeter 325

Our Corrosive Oceans: Exploring Regulatory Responses and
a Possible Role for Tribes

Weston R. LeMay 361

Copyright © 2016, 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:

Choong Kim
Washington Law Review
University of Washington
Gallagher Law Library
William H. Gates Hall
Box 353025
Seattle, Washington 98195

SUBSCRIPTION INFORMATION: Subscription price for Vol. 89: \$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:

Choong Kim
Washington Law Review
University of Washington
Gallagher Law Library
William H. Gates Hall
Box 353025
Seattle, Washington 98195
email: chk@u.washington.edu

MANUSCRIPTS: WASHINGTON LAW REVIEW invites the submission of legal scholarship on all topics for publication.

CITATION FORM: For Volume 91, WASHINGTON LAW REVIEW adopts the citation form of THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION (20th ed. 2015).

EDITORIAL CORRESPONDENCE: Editor-in-Chief
Washington Law Review
University of Washington
School of Law
William H. Gates Hall
Box 353025
Seattle, Washington 98195
email: editor@washrev.org

Member, National Conference of Law Reviews

WEBSITE: www.washingtonlawreview.org

WASHINGTON LAW REVIEW

VOLUME 91
2016

2015–2016 EDITORIAL BOARD

Editor-in-Chief
COURTNEY SCHIRR

Associate Editor-in-Chief
SYDNEY CONWAY

Associate Editor-in-Chief
JAMES FELDMAN

Chief Articles Editor
DEVON KING

Chief Managing Editor
CHRISTOPHER PIERCE-WRIGHT

Chief Online Editor
DANIEL RUSK

Chief Notes & Comments Editor
JORDAN MCCRITE

Executive Articles Editor
MICHAEL JETER

Executive Notes & Comments Editor
HARRY FUKANO

Executive Managing Editor
HAYLEE HURST

Articles Editors
MANMEET DHAMI
SPENCER GALL
THOMAS MANN MILLER

Notes & Comments Editors
SARA ALAVI
SARAH CHAPLIN
AMANDA HAILEY

Managing Editors
ASHLEY BROWN
PETER DAMROW
KRystal JENKINS
TYLER LICHTER
DIERDRE MADSEN
ASHLEIGH RHODES
HENRY ROSS
MARGARET SHOLIAN

Executive Online Editor
CHARLOTTE LUNDAY

Online Editors
PETER COOPER
WESTON LEMAY

EDITORIAL STAFF

SOPHIA AMBERSON
ALAINA BALYEAT
KALEIGH BOYD POWELL
LENA BRODSKY
NEIL S. BROWN
JAMES CARR
RYAN CASEY
CEDAR COSNER
TIFFANY CURTISS
ADA DANELO

ERIC FRANZ
ASTI GALLINA
ZACHARY GUSSIN
KELLY HOLLER
KAITLYN KELLY
BIANCA LACAILLE
XIN LIU
CAMILLE MCDORMAN
HARLAN MECHLING

JAMES MILLER
JEFFREY MUSTO
BENJAMIN OMDAL
ANDREW PEREZ
DESIREE PHAIR
JANE PRYJMAK
BENJAMIN ROBBINS
SHELBY STONER
VALERIE WALKER
RACHEL YEMINI

WASHINGTON LAW REVIEW ASSOCIATION FACULTY BOARD

CRAIG ALLEN
THOMAS ANDREWS

KAREN BOXX
LINDA HUME

SARAH KALTSOUNIS
KATHY MCGINNIS

BUSINESS STAFF

Faculty Business Manager
PENNY HAZELTON

Faculty Advisor
ROBERT GOMULKIEWICZ

Business Office
JONATHAN FRANKLIN
CHOONG KIM

University of Washington School of Law 2015–2016

OFFICERS OF ADMINISTRATION

Kelly Y. Testy, B.A., J.D., Toni Rembe Dean & Professor of Law
Patricia C. Kuszler, B.A., M.D., J.D., Vice Dean, Professor of Law
Mary A. Hotchkiss, B.A., M.S.L.S., J.D., LL.M., Senior Associate Dean for Students & Academic Life, Senior Law Lecturer
Kimberly Eckstein, B.A., Assistant Dean for Advancement
Michele Storms, B.A., J.D., Assistant Dean for Public Service, Executive Director William H. Gates Public Service Law Program
Anita K. Krug, B.A., M.A., J.D., Ph.D., Associate Dean for Faculty Research and Development, Associate Professor of Law
Mathew Le, B.A., J.D., Assistant Dean for Admissions and Financial Aid
Kojay Pan, M.P.A., Assistant Dean for Finance and Operations
Pontus Niklasson, M.A., Assistant Dean for Academic Services & Registrar

FACULTY EMERITI

William R. Andersen, B.S.L., LL.B., LL.M.
Robert H. Aronson, B.A., J.D.
James H. Hardisty, A.B., LL.B.
Roland L. Hjorth, A.B., LL.B.
Linda Hume, B.A., J.D.
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.
Philip A. Trautman, B.A., J.D.
Louis Wolcher, B.A., J.D.

FACULTY OF LAW

Craig H. Allen, B.S., J.D., LL.M., Professor of Law
Kimberly D. Ambrose, B.A., J.D., Senior Law Lecturer
Helen A. Anderson, B.A., J.D., 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
William Bailey, B.A., J.D., Law Lecturer
Karen E. Boxx, B.A., J.D., Professor of Law
Steve P. Calandrillo, B.A., J.D., Professor of Law
Ryan Calo, B.A., J.D., Assistant Professor of Law, Co-director of the Center for Advanced Study and Research on Intellectual Property
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., Senior Law Lecturer
Dwight J. Drake, B.S., J.D., Associate Professor of Law
Melissa J. Durkee, B.A., J.D., Assistant Professor of Law
Jonathan A. Eddy, B.A., J.D., Professor of Law, Manager of Afghanistan Legal Educators Project
Jennifer Fan, A.B., J.D., Managing Director, Entrepreneurial Law Clinic & Law Lecturer
Mary D. Fan, B.A., J.D., M.Phil., Professor of Law
Daniel Foote, A.B., J.D., Professor of Law, Co-Director Asian Law Center
Julia Gold, B.A., J.D., Principal Law Lecturer
Robert W. Gomulkiewicz, B.A., M.A., J.D., Professor of Law, Faculty Director, IP LLM, Co-director of the Center for Advanced Study and Research on Intellectual Property
Ben Halasz, B.A., J.D., Law Lecturer
Michael Hatfield, B.A., M.A., J.D., 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 Associate Dean for Students & Academic Life, Senior Law Lecturer
Maureen A. Howard, B.A., J.D., Associate Professor of Law
Stewart M. Jay, A.B., J.D., Professor of Law
Sarah Kaltsounis, B.S., M.Ed., J.D., Senior Law Lecturer
Lisa Kelly, B.A., J.D., Professor of Law, 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., Associate Dean for Research and Faculty Development, Associate

Professor of Law
 Patricia C. Kuszler, B.A., M.D., J.D., Vice Dean, Professor of Law
 Clark B. Lombardi, B.A., M.A., J.D., Ph.D., Associate Professor of Law, Adjunct Associate Professor of Law in
 International Affairs
 Lisa Manheim, B.A., J.D., Assistant Professor of Law
 Deborah Maranville, B.A., J.D., Professor of Law, Director of Clinical Law Program
 Anna C. Mastroianni, B.S., B.A., J.D., M.P.H., Professor of Law
 Shannon McCormack, B.A., J.D., LL.M., Associate Professor of Law
 Kathleen M. McGinnis, B.A., J.D., Senior Law Lecturer
 Jacqueline McMurtrie, B.G.S., J.D., Professor of Law, Director of Innocence Project Northwest
 Theodore A. Myhre, B.A., M.A., M.A., J.D., Senior Law Lecturer
 Peter Nicolas, B.A., M.P.P., J.D., Professor of Law
 Sean O'Connor, B.A., M.A., J.D., Professor of Law, Chair of the Center for Advanced Study and Research on
 Intellectual Property, Boeing International Professor
 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., Professor of Law
 Jeffrey Riedinger, B.A., J.D., M.A., Ph.D., Professor of Law, Vice Provost for Global Affairs
 Beth Rivin, B.A., M.D., M.P.H., Research Associate Professor of Law
 William H. Rodgers, B.A., J.D., Professor of Law
 Zahr Said, B.A., J.D., Ph.D., Assistant Professor of Law, Co-director of the Center for Advanced Study and
 Research on Intellectual Property
 Lauren Sancken, B.A., J.D., Law Lecturer
 Sallie Thiem Sanford, B.A., J.D., Associate 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., Professor of Law, Director of Federal Tax Clinic, Director of Graduate
 Program in Taxation
 Toshiko Takenaka, B.A., LL.M., Ph.D., Professor of Law
 Kellye Y. Testy, B.A., J.D., Toni Rembe Dean & Professor of Law
 Anna Tolin, B.A., J.D., Law Lecturer
 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., Professor of Law
 Todd Wildermuth, B.S., M.S., Ph.D., Law Lecturer
 Brenda Williams, B.A., M.P.A., J.D., Law Lecturer
 Jane K. Winn, B.Sc., J.D., Professor of Law, Co-director of the Center for Advanced Study and Research on
 Intellectual Property
 Lara Zarowsky, J.D., Law Lecturer
 Dongsheng Zang, LL.B., LL.M., LL.M., S.J.D., Associate Professor of Law, Co-Director Asian Law Center
 David Ziff, A.B., J.D., Law Lecturer

ADJUNCT AND VISITING FACULTY

Betsy Baker, B.A., J.D., LL.M., Counsel to the Dean - Alaska Programs & Affiliate Professor of Law
 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
 Angelica Chazaro, B.A., J.D., Visiting Assistant Professor
 Christine Cimini, B.A., J.D., Visiting Professor
 Denise Dudzinski, Ph.D., MTS, Adjunct Professor, Bioethics and Humanities
 John Haley, Professor of Law
 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
 Sang Jo Jong, Visiting Professor
 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
 Clare Ryan, B.S., M.S., Ph.D., Adjunct Professor, School of Environmental and Forest Sciences
 Thomas Schoenbaum, B.A., J.D., Visiting Professor
 Hugh D. Spitzer, B.A., J.D., LL.M., Acting 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, B.A., M.L.I.S., Library Specialist, Serials
 Karen Ballard, B.A., Library Specialist, Cataloging
 Rob Britt, B.A., M.A., M.A., East Asian Law Library Services Coordinator
 Judy Davis, B.A., M.L.I.S., Librarian, Resource Sharing

Anna Endter, B.A., J.D., M.L.I.S., Librarian, Reference
Flora Escarez, B.S., Library Specialist, Cataloging
Grace Feldman, B.A., J.D., M.L.I.S., Librarian, Reference
Jonathan Franklin, A.B., A.M., J.D., M.L.I.S., Interim Director of Library and Computing Services, Associate Law Librarian
Sharon Hall, Library Specialist Supervisor, Cataloging
Tricia Hart, B.A., M.L.I.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
Richard Jost, B.A., M.A., M.A., Information Systems Coordinator
Choong Kim, B.A., Fiscal Specialist, Washington Law Review, Washington International Law Journal
Kaden Mack, B.A., Library Technician, Circulation
Ann Nez, B.A., M.L.I.S., Librarian, Technical Services Coordinator
Vickie Northington, B.A., Library Supervisor, Circulation
Cheryl Nyberg, B.A., M.S.L.I.S., Librarian, Reference
Nikki Pike, Information Specialist, CILP
Patty Roberts, B.A., Library Technician Lead, Evening Circulation Supervisor
Tania Schriwer, B.A., J.D., M.L.I.S., CILP Co-Editor
Dave Tawatao, Senior Computer Specialist
Reba Turnquist, B.A., M.L.I.S., Librarian, Collection Development
Mary Whisner, B.A., J.D., M.L.I.S., Librarian, Coordinator of Reference Services
Alena Wolotira, B.A., J.D., M.L.I.S., Librarian, Reference; CILP Co-Editor
Quan (John) Zhang, B.A., M.A., Ph.D., Library Specialist, Acquisitions

