## Washington Law Review

Volume 93 | Number 2

6-1-2018

### Contents

anon

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

#### **Recommended Citation**

anon, Table of Contents, *Contents*, 93 Wash. L. Rev. i (2018). Available at: https://digitalcommons.law.uw.edu/wlr/vol93/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 93, NUMBER 2, JUNE 2018

Published by Students of the University of Washington School of Law

## CONTENTS

ARTICLES	
How Copyright Law Can Fix Artificial Intelligence's Implicit Bias Problem	
Amanda Levendowski	579
The Secret Life of Priority: Corporate Reorganization After <i>Jevic</i>	
Jonathan C. Lipson	631
Retaliation Backlash	
Alex B. Long	715
Visual Metaphor and Trademark Distinctiveness	
Dustin Marlan	767
Confidentiality in Patent Dispute Resolution: Antitrust Implications	
Mark R. Patterson	827
Choosing Medical Malpractice	
Nadia N. Sawicki	891
Dangerous Warrants	
Nirej Sekhon	967
COMMENTS	
Privacy in the Cloud: The Fourth Amendment Fog	

Sarah Aitchison 1019

I Would Like to Request Your Academic Records: FERPA Protections and the Washington Public Records Act

Tevon Edwards 1057

Preserving VAWA's "Nonreport" Option: A Call for the Proper Storage of Anonymous/Unreported Rape Kits

Gavin Keene 1089

Copyright © 2018, 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:

Washington Law Review University of Washington Gallagher Law Library William H. Gates Hall Box 353025 Seattle, Washington 98195 email: editor@washlrev.org

SUBSCRIPTION INFORMATION: Subscription price for Vol. 93: \$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:

Washington Law Review University of Washington Gallagher Law Library William H. Gates Hall Box 353025 Seattle, Washington 98195 email: editor@washlrev.org

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

CITATION FORM: For Volume 93, 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@washlrev.org

Member, National Conference of Law Reviews

WEBSITE: www.washingtonlawreview.org

# WASHINGTON LAW REVIEW

#### VOLUME 93 2018

#### 2017-2018 EDITORIAL BOARD

Editor-in-Chief ALEX D. PEARSON

Associate Editor-in-Chief SARAH AITCHISON Associate Editor-in-Chief MARICARMEN PEREZ-VARGAS

Chief Notes & Comments Editor

Chief Managing Editor

ANNE PFEIFLE

CARL RUBINSTEIN

Chief Articles Editor ERIC KOHAN

Chief Online Editor GAVIN KEENE

Executive Articles Editor JAKE DINI

Articles Editors Brent Droze Jake Gober Madeline Lamo Katherine Shattuck Nicholas Valera

BRITTANY ADAMS ALLEXIA BOWMAN ARNOLD ALEX AVAKIANTZ LAURA BARNES SETH W. R. BRICKEY JANE CARMODY CONNIE CHENG STELLA CHUNG NICHOLAS CODY CHRIS FURMAN Executive Managing Editor GABRIELLE HANNA

Managing Editors Alexander Arkfeld Alexandra Burton Joshua Chang John Delaney Evan Dobbs Sarah Hendrick Erik Martes Michael Cohodes Payant Samantha Pitsch Markus Surratt

#### EDITORIAL STAFF

MARTHA GEYER SERENA HAMANN NATHAN HICKNER BLAKE HOLBROOK BETSY ISACKES MARTEN KING PHILIPP C. KUNZE SARA LEONETTI MIKAELA L. J. LOUIE Executive Notes & Comments Editor KATELYN FULTON

> Notes & Comments Editors Tevon Edwards David Matsumoto James Satterberg

> > Executive Online Editor SARAH H. ASHMORE

KAYLAN LOVROVICH BEN MOORE SANDRA PATLAN GABRIELLE SISCO SARAH E. SMITH CHASE STEWART MIRIAM R. STIEFEL REBECCA SWEENEY LOGAN S. WEAVER NICHOLAS S. WEGLEY

#### WASHINGTON LAW REVIEW ASSOCIATION FACULTY BOARD

KAREN BOXX

KATHY MCGINNIS

LAUREN SANCKEN

#### BUSINESS STAFF

Faculty Business Manager PENNY HAZELTON Faculty Advisor ROBERT GOMULKIEWICZ Business Office Jonathan Franklin

#### University of Washington School of Law 2017–2018

OFFICERS OF ADMINISTRATION Jessica Brase, M.P.A, Assistant Dean for Finance and Operations Christine Cimini, Associate Dean for Experiential Education Jonathan Franklin, A.B., A.M., J.D., M.Libr., Associate Dean for Library & Information Systems Mary Hotchkiss, B.A., M.S.L.S., J.D., Senior Advisor to the Dean Sanne Knudsen, B.A., M.S., J.D., Associate Dean for Research & Faculty Development Anita K. Krug, B.A., M.A., J.D., Ph.D., Interim Toni Rembe Dean & Professor of Law Mathiew Le, B.A., J.D., Assistant Dean for Enrollment Pontus Niklasson, M.A, Assistant Dean for Academic Services & Registrar Scott Schumacher, B.A., J.D., LL.M., Associate Dean for Academic Administration, Professor of Law, Director of Federal Tax Clinic, Director of Graduate Program in Taxation Brenda Williams, B.A., M.P.A., J.D., Associate Dean for Students, Equity and Engagement Craig Wright, B.A., J.D., Assistant Dean for Advancement FACULTY EMERITI William R. Andersen, B.S.L., LL.B., LL.M. Thomas Andrews, B.A., M.A., J.D. Robert Aronson, B.A., J.D. Julia Gold, B.A., J.D. James Hardisty, A.B., L.L.B. Penny Hazelton, B.A., J.D., M.L.L. Roland Hjorth, A.B., L.L.B. John Huston, B.A., J.D., LL.M. Stewart Jay, A.B., J.D John M. Junker, B.A., J.D. Deborah Maranville, B.A., J.D. Kathleen O'Neill, B.A., J.D. John R. Price, A.B., LL.B. Roy L. Prosterman, B.A., J.D. William H. Rodgers, B.A., 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 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., Associate Professor of Law, Co-Director of the Center for Advanced Study and Research on Intellectual Property

- Angelica Chazaro B.A. J.D., Assistant Professor of Law
- John Clynch B.A., J.D., LL.M., Law Lecturer
- 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., Harold S. Shefelman Scholar
- 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., Associate Professor of Law
- Jonathan A. Eddy, B.A., J.D., Professor of Law, Manager of Afghanistan Legal Educators Project
- Jennifer S. Fan, A.B., J.D., Managing Director, Entrepreneurial Law Clinic & Assistant Professor
- 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
- Trevor Gardner, B.A., J.D., Ph.D., Assistant Professor of Law
- 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
- Benjamin S. Halasz, B.A., J.D., Law Lecturer
- Michael Hatfield, B.A., M.A., J.D., Professor of Law
- Gregory A. Hicks, B.A., J.D., Professor of Law
- Maureen A. Howard, B.A., J.D., Associate Professor of Law
- 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
- Patricia C. Kuszler, B.A., M.D., J.D., Director, Center for Law, Science

- 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., Associate Professor of Law
- Anna C. Mastroianni, B.S., B.A., J.D., M.P.H., Professor of Law
- Shannon McCormack, B.A., J.D., LL.M, Professor of Law
- Kathleen M. McGinnis, B.A., J.D., Principal Lecturer of Law
- 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, Boeing International Professor
- Elizabeth Porter, B.A., M.Ed., M.A., J.D., Associate 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
- Zahr Said, B.A., J.D., Ph.D., Associate Professor of Law, Director of the Center for Advanced Study and Research on Intellectual Property
- Lauren Sancken, B.A., J.D., Law Lecturer
- Sallie Thieme Sanford, B.A., J.D., Associate Professor of Law
- Eric Schnapper, B.A., M.A., B.Phil., LL.B., Professor of Law
- Toshiko Takenaka, B.A., LL.M., Ph.D., Professor of Law
- Kellye Y. Testy, B.A., J.D., 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
- Jane K. Winn, B.Sc., J.D., Professor of Law, Co-Director of the Center for Advanced Study and Research on Intellectual Property
- 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., Senior 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

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
- Tony Quang, B.A., M.D., J.D., Adjunct Associate Professor
- Clare Ryan, B.S., M.S., Ph.D., Adjunct Professor, School of Environmental and Forest Sciences
- Thomas Schoenbaum, B.A., J.D., Visiting Professor
- Jeff Schwartz, 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., Librarian, Serials and Research Services 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, Access & Resource Sharing and Reference Anna Endter, B.S., J.D., M.L.I.S., Librarian, Head of Research Services 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, Government Information, and Reference Richard Jost, B.A., M.A., M.A., Interim Director, Law Librarianship Program Kaden Mack, B.A., Library Technician, Circulation Ann Nez, B.A., M.L.I.S., Librarian, Technical Services Coordinator Cheryl Nyberg, B.A., M.S.L.I.S., Librarian, Digital Innovation and Reference Nikki Pike, Program Operations Specialist, CILP Tania Schriwer, B.A., J.D., M.L.I.S., CILP Co-Editor Reba Turnquist, B.A., M.L.I.S., Librarian, Collection Development Mary Whisner, B.A., J.D., M.L.I.S., Librarian, Research Services Alena Wolotira, B.A., J.D., M.L.I.S., Librarian, Research Services & Circulation; CILP Exec. Editor