

Volume 52 | Issue 4

2002

Volume 52 Issue 4 (2002)

Case Western Reserve University Law Review

Follow this and additional works at: <https://scholarlycommons.law.case.edu/caselrev>



Part of the [Law Commons](#)

Recommended Citation

Case Western Reserve University Law Review, *Volume 52 Issue 4 (2002)*, 52(4) Case W. Res. L. Rev. Front Matter (2002)
Available at: <https://scholarlycommons.law.case.edu/caselrev/vol52/iss4/2>

This Front Matter is brought to you for free and open access by the Student Journals at Case Western Reserve University School of Law Scholarly Commons. It has been accepted for inclusion in Case Western Reserve Law Review by an authorized administrator of Case Western Reserve University School of Law Scholarly Commons.

CASE WESTERN RESERVE LAW REVIEW

VOLUME 52

SUMMER 2002

NUMBER 4

THE JONATHAN M. AULT SYMPOSIUM: PROFESSIONAL RESPONSIBILITY AND MULTI-DISCIPLINARY PRACTICE

INTRODUCTION
ROBERT P. LAWRY

MDPs, "SPINNING," AND *WOUTERS v. NOVA*
LAUREL S. TERRY

COMMENT: THE MULTI-DISCIPLINARY
PRACTICE OF CERTIFIED PUBLIC
ACCOUNTANTS AND LAWYERS
ANDREW D. BAILEY, JR.

THE MDP CHALLENGE IN THE CONTEXT OF
GLOBALIZATION
BRYANT G. GARTH
& CAROLE SILVER

COMMENT: A LAW FIRM'S RESPONSE TO
MULTI-DISCIPLINARY PRACTICE
DALE C. LAPORTE

COMMENT: GLOBAL MULTI-DISCIPLINARY
PRACTICE: A WORD ON "THE FUTURE"
GARY JOHN PREVITS

COMPARATIVE MULTI-DISCIPLINARY PRACTICE OF LAW:
PATHS TAKEN AND NOT TAKEN
CHARLES W. WOLFRAM

COMMENT: MULTI-DISCIPLINARY PRACTICE
AND CONFLICT OF INTEREST
KEVIN C. McMUNIGAL

COMMENT: MULTI-DISCIPLINARY PRACTICE—
A VIEW FROM ACCA
FREDERICK J. KREBS

NOTES

THE USE OF THE DISCOUNT RATE IN EPA
ENFORCEMENT ACTIONS
MICHAEL J. PODOLSKY

THE ECONOMICALLY DISADVANTAGED AND THE ADA:
WHY ECONOMIC NEED SHOULD FACTOR INTO THE
MITIGATING MEASURES DISABILITY ANALYSIS
CHRISTINE M. TOMKO

CONSTRUCTION CONTRACTING: BUILDING BETTER
LAW WITH THE UNIFORM COMMERCIAL CODE
EMMIE WEST

COMMENTS

FOCUSING ON INFRINGEMENT:
WHY LIMITATIONS ON DECRYPTION TECHNOLOGY
ARE NOT THE SOLUTION TO POLICING COPYRIGHT
BRIAN BOLINGER

THE WIND DONE GONE: TRANSFORMING TARA
INTO A PLANTATION PARODY
JEFFREY D. GROSSETT

JUN 18 2002

**CASE
WESTERN
RESERVE
LAW REVIEW**

Volume 52, Number 4
Summer 2002



CASE WESTERN RESERVE LAW REVIEW

VOLUME 52

SUMMER 2002

NUMBER 4

Managing Editor

EMMIE WEST

Editor in Chief

WENDY L. WALLACE

Publisher

BENJAMIN S. GENSHAFT

Executive Articles Editor

ANTHONY F. SPALVIERI

Executive Contributing Editor

JEFFREY D. GROSSETT

Executive Notes Editor

ROBERT S. LEWIS

Articles Editors

KYLE M. HANNAFORD
CHRISTINA C. LAWRENCE
SARAH LEBER
JACK TURNER II

Associate Coordinator

HEATHER A. LANG

Contributing Editors

BRIAN W. BOLINGER
MICHAEL J. PODOLSKY
CHRISTINE M. TOMKO

Notes Editors

JUNXIA JERNEJCIC
JULANNE MONTVILLE
CURTIS RODEBUSH
KELLY A. SLATTERY

Associates

ATOSSA ALAVI
MICHELE CONNELL
PAUL CHRISTOPHER DUNN
RYAN FALK
MATTHEW R. FICHTER
DANIEL C. GARFINKEL
JAMIE PEAL KAVE

KELLY M. KING
LEE KORLAND
PHILLIP WESLEY LAMBERT
JOHN PAUL LUCCI
TRACY A. MALLOY
DAVID F. NORDEN
CHRISTOPHER PELLICIONI
AMANDA RAINES

BABAK A. RASTGOUFARD
KEVIN M. SMITH
JORDAN L. STRAUSS
ADRIAN M. SZENDEL
ROGER G. TRIM
JOSEPH A. URSIC
THOMAS WELSH

Faculty Advisor

JONATHAN L. ENTIN

CASE WESTERN RESERVE UNIVERSITY
SCHOOL OF LAW FACULTY

Administrative Officers

GERALD KORNGOLD, B.A., J.D., *Dean*
ANDREW P. MORRISS, A.B., J.D., M.P.A., PH.D., *Associate Dean for Academic Affairs*
BRYAN L. ADAMSON, B.S., PH.B., M.A., J.D., *Assistant Dean for Student Services*
BARBARA F. ANDELMAN, B.A., J.D., *Assistant Dean for Admissions, Financial Aid, and Special Projects*
SUSAN RENEE SELIGA, B.S.B.A., J.D., *Assistant Dean for Career Services*

Professors Emeriti

PETER D. JUNGER, A.B., LL.B.
EDWARD A. MEARNES, JR., B.S., LL.B.
HUGH A. ROSS, B.S., LL.B., LL.M., S.J.D.
OLIVER C. SCHROEDER, JR., A.B., J.D., *Albert J. Weatherhead III and Richard W. Weatherhead Professor Emeritus*

Professors of Law

ARTHUR D. AUSTIN II, B.S., LL.B.
Edgar A. Hahn Professor
LAURA BROWN CHISOLM, B.A., J.D.
HIRAM E. CHODOSH, B.A., J.D.
Director, Frederick K. Cox International Law Center
RONALD J. COFFEY, A.B., LL.B., LL.M.
GEORGE W. DENT, JR., B.A., J.D., LL.M.
Schott—van den Eynden Professor of Business Organizations Law
MELVYN R. DURCHSLAG, B.S., J.D.
JONATHAN L. ENTIN, A.B., J.D.
Professor of Law and Political Science
LEON GABINET, PH.B., J.D.
Executive Director, LL.M. Taxation
PETER M. GERHART, B.A., J.D.
PAUL C. GIANNELLI, B.A., M.S.F.S., J.D., LL.M.
Albert J. Weatherhead III and Richard W. Weatherhead Professor
THOMAS I. HAUSMAN, B.A., J.D., LL.M.
Adjunct Professor and Administrative Director, LL.M. Taxation
MICHAEL HEISE, A.B., J.D., PH.D.
ERIK M. JENSEN, S.B., M.A., J.D.
David L. Brennan Professor
LEWIS R. KATZ, A.B., J.D.
John C. Hutchins Professor and Director, LL.M. United States Legal Studies
HENRY T. KING, JR., B.A., LL.B.
Adjunct Professor and U.S. Director, Canada—U.S. Law Institute
GERALD KORNGOLD, B.A., J.D.
Everett D. and Eugenia S. McCurdy Professor
JULIET P. KOSTRITSKY, A.B., J.D.
John Homer Kapp Professor
ROBERT P. LAWRY, B.A., J.D., DIP. LAW,
Director, Center for Professional Ethics
WILBUR C. LEATHERBERRY, A.B., J.D.
Director of Skills Courses and Advocacy Programs
JUDITH P. LIPTON, B.A., M.S.S.W., J.D.
Codirector, Milton A. Kramer Law Clinic
KENNETH R. MARGOLIS, B.A., J.D.
Codirector, Milton A. Kramer Law Clinic
JAMES W. MCELHANEY, A.B., LL.B.
Joseph C. Hostetler Professor
LOUISE W. MCKINNEY, B.A., J.D.
KEVIN C. MCMUNIGAL, B.A., J.D.
Judge Ben C. Green Professor
MAXWELL J. MEHLMAN, B.A., J.D.
Arthur E. Petersilge Professor, Professor of Bioethics and Director, Law-Medicine Center
ANDREW P. MORRISS, A.B., J.D., M.P.A., PH.D.
Galen J. Roush Professor of Business Law and Regulation
CRAIG ALLEN NARD, B.A., J.D., LL.M., J.S.D.
Director, Center for Law, Technology, and the Arts
SPENCER NETH, A.B., J.D., LL.M.
SIDNEY I. PICKER, JR., A.B., LL.B., LL.M.
MORRIS G. SHANKER, B.S.E.E., M.B.A., J.D.
CALVIN WILLIAM SHARPE, B.A., M.A., J.D.
John Deaver Drinko—Baker & Hostetler Professor
ANN SOUTHWORTH, B.A., J.D.
ROBERT N. STRASSFELD, B.A., M.A., J.D.

Associate Professors of Law

BRYAN L. ADAMSON, B.S., PH.B., M.A., J.D.
KATHLEEN M. CARRICK, B.A., M.L.S., J.D., *Director of the Library*
KATHERINE M. HESSLER, B.A., J.D., LL.M.
KENNETH F. LEDFORD, B.A., J.D., M.A., PH.D., *Associate Professor of History and Law*
THEODORE L. STEINBERG, B.A., PH.D., *Associate Professor of History and Law*

Assistant Professors of Law

JONATHAN H. ADLER, B.A., J.D.
JESSICA BERG, B.A., J.D., *Assistant Professor of Law and Biomedical Ethics*
WILLIAM M. CARTER, JR., B.A., J.D.
SHARONA HOFFMAN, B.A., J.D., LL.M.
JACQUELINE D. LIPTON, B.A., LL.B., LL.M., PH.D.
CAROL A. TUROWSKI, B.A., M.A., J.D.

Instructors in Law

DAVID J. CARNEY, B.A., J.D.
PETER B. FRIEDMAN, B.A., J.D.
Director, Research, Analysis, Writing, and Skills Courses
JONATHAN GORDON, B.A., J.D.
D. R. JONES, B.A., J.D., M.L.S.
SUSAN STEINLE MCKENZIE, A.B., J.D.
KATHRYN L. MERCER, A.B., M.S.S.W., J.D., PH.D.

The CASE WESTERN RESERVE LAW REVIEW (ISSN 0008-7262), formerly the Western Reserve Law Review, is published quarterly by the students of the Case Western Reserve University School of Law. Periodicals postage paid at Cleveland, Ohio and at additional mailing offices. Editorial and business offices are located at Case Western Reserve University, 11075 East Boulevard, Cleveland, Ohio 44106, telephone (216) 368-3312. POSTMASTER: Send address changes to Case Western Reserve Law Review, 11075 East Boulevard, Cleveland, Ohio 44106. The submission of unsolicited manuscripts is invited. Subscriptions are entered for the entire volume for \$25.00 per year. Subscriptions are automatically renewable and any correspondence regarding this should be sent to the Coordinator of Student Publications. The Review's policy requires that unless a claim for nonreceipt of an issue is received within three months after the mailing date, the Review cannot be held responsible for supplying that issue without charge. Single issues of the current volume are available for \$15.00 each. Back issues from earlier volumes are available from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, New York 14209. Citations conform to *The Bluebook: A Uniform System of Citation* (17th ed. 2000), copyright by the Columbia Law Review, the Harvard Law Review, the University of Pennsylvania Law Review, and the Yale Law Journal. Style conforms generally to *The Chicago Manual of Style* (14th ed. 1993).

The Case Western Reserve Law Review grants permission for each article in this volume to be copied for use by nonprofit educational institutions, provided that (1) copies are distributed at or below cost, (2) the author and the Review are identified, and (3) proper notice of copyright is affixed to each copy. This issue went to press in May 2002.

CASE WESTERN RESERVE LAW REVIEW

VOLUME 52

SUMMER 2002

NUMBER 4

COPYRIGHT © 2002 BY CASE WESTERN RESERVE LAW REVIEW

THE JONATHAN M. AULT SYMPOSIUM: PROFESSIONAL RESPONSIBILITY AND MULTI-DISCIPLINARY PRACTICE

INTRODUCTION

Robert P. Lawry861

MDPS, "SPINNING," AND *WOUTERS V. NOVA*

Laurel S. Terry867

COMMENT: THE MULTI-DISCIPLINARY PRACTICE OF CERTIFIED PUBLIC ACCOUNTANTS AND LAWYERS

Andrew D. Bailey, Jr.895

THE MDP CHALLENGE IN THE CONTEXT OF GLOBALIZATION

Bryant G. Garth & Carole Silver903

COMMENT: A LAW FIRM'S RESPONSE TO MULTI- DISCIPLINARY PRACTICE

Dale C. LaPorte943

COMMENT: GLOBAL MULTI-DISCIPLINARY PRACTICE: A WORD ON "THE FUTURE"

Gary John Previts947

COMPARATIVE MULTI-DISCIPLINARY PRACTICE OF LAW: PATHS TAKEN AND NOT TAKEN

Charles W. Wolfram961

COMMENT: MULTI-DISCIPLINARY PRACTICE AND CONFLICT OF INTEREST

Kevin C. McMunigal995

COMMENT: MULTI-DISCIPLINARY PRACTICE—A VIEW FROM ACCA

Frederick J. Krebs1005

NOTES

- THE USE OF THE DISCOUNT RATE IN EPA ENFORCEMENT ACTIONS
Michael J. Podolsky 1009
- THE ECONOMICALLY DISADVANTAGED AND THE ADA: WHY ECONOMIC
NEED SHOULD FACTOR INTO THE MITIGATING MEASURES DISABILITY
ANALYSIS
Christine M. Tomko..... 1033
- CONSTRUCTION CONTRACTING: BUILDING BETTER LAW WITH THE
UNIFORM COMMERCIAL CODE
Emmie West..... 1067

COMMENTS

- FOCUSING ON INFRINGEMENT: WHY LIMITATIONS ON DECRYPTION
TECHNOLOGY ARE NOT THE SOLUTION TO POLICING COPYRIGHT
Brian Bolinger..... 1091
- THE WIND DONE GONE*: TRANSFORMING TARA INTO A PLANTATION
PARODY
Jeffrey D. Grossett 1113