

2020

Volume 70 Issue 4 (2020)

Case Western Reserve Law Review

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

 Part of the [Law Commons](#)

Recommended Citation

Case Western Reserve Law Review, *Volume 70 Issue 4 (2020)*, 70(4) Case W. Rsrv. L. Rev. Front Matter (2020)

Available at: <https://scholarlycommons.law.case.edu/caselrev/vol70/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 70, Issue 4
Summer 2020



SCHOOL OF LAW

CASE WESTERN RESERVE
UNIVERSITY

© 2020 by Case Western Reserve Law Review

The Case Western Reserve Law Review (ISSN 0008-7262), formerly the Western Reserve Law Review, is published quarterly by the students of Case Western Reserve University School of Law. Postage paid at Cleveland, Ohio and at additional mailing offices. Editorial and business offices are located at Case Western Reserve University School of Law, 11075 East Boulevard, Cleveland, Ohio 44106. Contact the Review by e-mail: lawreview@case.edu or telephone: (216) 368-3312.

The Case Western Reserve Law Review published this issue in print and online in August 2020.

The submission of unsolicited manuscripts is invited.

Subscriptions are entered for the entire volume for \$34.00 per year (\$36.00 outside the United States). Single issues of the current and previous volumes are available from the Case Western Reserve Law Review for \$16.00 each, plus shipping and handling. To order, contact:

Case Western Reserve University School of Law
Attn: Matthew Rish
11075 East Boulevard
Cleveland, Ohio 44106
Phone: (216) 368-6350
Facsimile: (216) 368-3285
E-mail: matthew.rish@case.edu

Back issues from earlier volumes are available from William S. Hein & Co., Inc., 24 East Ferry Road, Buffalo, New York 14209, or online: www.wshein.com/catalog/101440. Back issues are also available in electronic format at heinonline.org.

Citations conform to *The Bluebook: A Uniform System of Citation* (Columbia Law Review Ass'n et al. eds., 20th ed. 2015). Style conforms generally to *The Chicago Manual of Style* (16th ed. 2010).

For all photocopy or republication requests, please contact Copyright Clearance Center, Inc. by mail: 222 Rosewood Drive, Danvers, Massachusetts 01923, by phone: (855) 239-3415, by fax: (978) 646-8600, by e-mail: info@copyright.com, or online: www.copyright.com.

CASE WESTERN RESERVE LAW REVIEW

Volume 70

Summer 2020

Issue 4

Editor in Chief
VITO GIANNOLA

Managing Editor
JOSEPH SHELL

Publisher
NATHANIEL LINGER

Executive Notes Editor
LAUREN GARRETSON

Executive Articles Editors
KATHERINE DOBSCHA
ROCCO SCRENCI

Executive Symposium Editor
CHRISTOPHER LAUER

Executive Contributing Editor
JESSICA ICE

Operations Editor
ELEN YERANOSYAN

JESSICA WARSHAW

Contributing Editors
LACEY FERRARA

GENEVA RAMIREZ

MELODY GOODIN
CHRISTOPHER HOKE

Senior Editors
HELEN JAZZAR
HANNAH MEHRLE

EMILY PETERSON
ABIGAIL THEDERAHN

CHANGDAE BAEK
HANNAH BAKER
SOPHIA BILLIAS
DILLON BROWN
MATTHEW CASSELBERRY
MAEVE DINEEN
MCKENZIE HARTMAN

Associate Editors
GREGORY HILBERT
JOHN HOLZHEIMER
RYAN KERFOOT
MELANIE KING
RACHEL LAMPARELLI
CAROLINE MILLS
WILLIAM PINKLEY
GRACE SAALMAN

BRYCE SAUNDERS
CHRISTINE SCHERER
SARAH SCHNEIDER
MRINALI SETHI
PAUL WILLISON
GABRIELLE WILSON
JESSE WYNN

Faculty Advisor
JONATHAN ENTIN

CASE WESTERN RESERVE UNIVERSITY
SCHOOL OF LAW FACULTY

Administrative Officers

Deans

JESSICA WILEN BERG, B.A., J.D., M.P.H.
MICHAEL P. SCHARF, A.B., J.D.

Associate Dean for Academic Affairs

AVIDAN Y. COVER, B.A., J.D.

Associate Dean for Experiential Education

LAURA E. MCNALLY-LEVINE, B.A., J.D.

Associate Dean for Faculty Development and Research

B. JESSIE HILL, A.B., J.D.

Associate Dean for Global Legal Studies

JUSCELINO F. COLARES, LL.B., M.A., PH.D., J.D.

Associate Dean for Development and Alumni Affairs

DANIEL GUNTHER, B.A., M.A.

Associate Dean for Enrollment Planning and Strategic Initiatives

ALYSON S. ALBER, B.S., J.D.

Senior Associate Dean for Student and Professional Engagement

SARAH MCFARLANE POLLY, B.A., J.D.

Assistant Dean of Admissions

KELLI C. CURTIS, B.A., J.D.

Assistant Dean for Student Services

MICHAEL T. MCCARTHY, B.A., J.D.

Assistant Dean of Career Development

MARY BETH MOORE, B.A., J.D.

Assistant Dean of Finance and Administration

MELANIE WALKER, B.B.A., M.B.A.

Professors of Law

JONATHAN H. ADLER, B.A., J.D.

*Johan Verheij Memorial Professor and Director, Coleman P. Burke
Center for Environmental Law*

JESSICA WILEN BERG, B.A., J.D., M.P.H.

*Tom J.E. and Bette Lou Walker Professor; Professor of Bioethics and
Public Health*

DAVID J. CARNEY, B.A., J.D.

JUSCELINO F. COLARES, LL.B., M.A., PH.D., J.D.

*Schott-van den Eynden Professor of Law; Professor of Political Science; and
Co-Director, Frederick K. Cox International Law Center*

AVIDAN Y. COVER, B.A., J.D.

Director, Institute for Global Security Law and Policy

SHANNON E. FRENCH, B.A., PH.D.

*Inamori Professor of Ethics; Professor of Philosophy and Law; and
Director, Inamori International Center for Ethics and Excellence*

PETER M. GERHART, B.A., J.D.

John Homer Kapp Professor

JONATHAN C. GORDON, B.A., J.D.

Director, S.J.D. Program

RICHARD K. GORDON, B.A., J.D.

*Director of Financial Integrity Programs; Associate Director, Frederick K.
Cox International Law Center*

BRIAN K. GRAN, B.A., J.D., PH.D.

Professor of Sociology and Law

B. JESSIE HILL, A.B., J.D.

Judge Ben C. Green Professor

SHARONA HOFFMAN, B.A., J.D., LL.M., S.J.D.

*Edgar A. Hahn Professor; Professor of Bioethics; and Co-Director,
Law-Medicine Center*

DANIEL A. JAFFE, B.A., J.D.

Director, Lawyering Skills Program

CHARLES R. KORSMO, S.B., J.D.

JULIET P. KOSTRITSKY, A.B., J.D.

*Everett D. & Eugenia S. McCurdy Professor and Director, Center for
Business Law*

RAYMOND SHIH RAY KU, A.B., J.D.

Director, Center for Cyberspace Law and Policy

KEVIN C. MCMUNIGAL, B.A., J.D.

LAURA E. McNALLY-LEVINE, B.A., J.D.

MAXWELL J. MEHLMAN, B.A., J.D.
*Distinguished University Professor and Arthur E. Petersilge Professor;
Professor of Bioethics; and Co-Director, Law-Medicine Center*

KATHRYN S. MERCER, A.B., M.S.S.A., J.D., PH.D.

DALE A. NANCE, B.A., J.D., M.A.
Albert J. Weatherhead III & Richard W. Weatherhead Professor

CRAIG ALLEN NARD, B.A., J.D., LL.M., J.S.D.
*Galen J. Roush Professor and Director, Spangenberg Center for Law,
Technology, and the Arts and the FUSION Certificate Program in Design,
Innovation & IP Management*

AARON K. PERZANOWSKI, A.B., J.D.

ANDREW S. POLLIS, A.B., J.D.

CASSANDRA BURKE ROBERTSON, B.A., M.A., M.P.AFF., J.D.
*John Deaver Drinko-BakerHostetler Professor and Director, Center for
Professional Ethics*

MATTHEW J. ROSSMAN, B.A., J.D.

MICHAEL P. SCHARF, A.B., J.D.
Joseph C. Hostetler-BakerHostetler Professor

BARBARA R. SNYDER, B.A., J.D.
President of the University

THEODORE L. STEINBERG, B.A., PH.D.
Adeline Barry Davee Distinguished Professor of History and Professor of Law

ROBERT N. STRASSFELD, B.A., M.A., J.D.
Deputy Director, Financial Integrity Institute

Associate Professors of Law

JOSEPH A. CUSTER, B.A., J.D., M.B.A., M.L.S.
Director, Law Library

KENNETH F. LEDFORD, B.A., J.D., M.A., PH.D.
Associate Professor of History and Law

Assistant Professors of Law

ANAT ALON-BECK, LL.B, LL.M., J.S.D.

JAIME BOUVIER, B.A., J.D.

AYESHA B. HARDAWAY, B.A., J.D.
Director, Social Justice Law Center

JACK TURNER II, B.A., J.D.
Director, Foreign Graduate LL.M. Program

Senior Instructors in Law

MICHAEL J. BENZA, B.A., M.A., J.D.
Associate Director, Financial Integrity Institute

CATHY LESSER MANSFIELD, B.A., J.D.

Instructors

LIAM J. DUNN, B.A., M.A., M.S., J.D.

Lecturers

TIMOTHY J. DUFF, B.A., J.D.

BENJAMIN FALLER, B.A., J.D.

MELANIE R. GIAMARIA, B.A., J.D., M.S.S.A.

MATTHEW A. SALERNO, B.A., J.D.

MAYA M. SIMEK, B.S., M.S.S.A., J.D.

Visiting Faculty

ROBERT N. RAPP, B.A., J.D., M.B.A.

KATHARINE A. VAN TASSEL, B.S.N., J.D., M.P.H.

Professors Emeriti

RONALD J. COFFEY, A.B., LL.B., LL.M.

GEORGE W. DENT, JR., B.A., J.D., LL.M.
Schott-van den Eynden Professor Emeritus

MELVYN R. DURCHSLAG, B.S., J.D.

JONATHAN L. ENTIN, A.B., J.D.
David L. Brennan Professor Emeritus of Law and Political Science

LEON GABINET, PH.B., J.D.
Coleman P. Burke Professor Emeritus

PAUL C. GIANNELLI, B.A., M.S.F.S., J.D., LL.M.
Distinguished University Professor Emeritus and Albert J. Weatherhead III & Richard W. Weatherhead Professor Emeritus

ERIK M. JENSEN, S.B., M.A., J.D.
Coleman P. Burke Professor Emeritus

LEWIS R. KATZ, A.B., J.D.
John C. Hutchins Professor Emeritus and Director Emeritus, Foreign Graduate Legal Studies

ROBERT P. LAWRY, B.A., J.D., DIP. LAW
Director Emeritus, Center for Professional Ethics

WILBUR C. LEATHERBERRY, A.B., J.D.

JUDITH P. LIPTON, B.S., M.S.S.W., J.D.
Honorable Blanche E. Krupansky and Frank W. Vargo, Jr. Professor Emerita

KENNETH R. MARGOLIS, B.A., J.D.

LOUISE W. MCKINNEY, B.A., J.D.

SPENCER NETH, B.A., 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.
John Homer Kapp Professor Emeritus

CALVIN WILLIAM SHARPE, B.A., M.A., J.D.
Galen J. Roush Professor Emeritus

CASE WESTERN RESERVE LAW REVIEW

Volume 70

Summer 2020

Issue 4

LECTURE

- Assorted Canards of Contemporary Legal Analysis: Redux 855
Honorable Amy Coney Barrett

SYMPOSIUM

THE ENVIRONMENTAL PROTECTION AGENCY TURNS FIFTY

- The Environmental Protection Agency Turns Fifty 871
Jonathan H. Adler
- The EPA at Fifty Symposium: Keynote Address 883
Andrew Wheeler
- A Critical Assessment of the EPA's Air Program at Fifty and a Suggestion for 895
How It Might Do Even Better
E. Donald Elliott
- Disempowering the EPA: How Statutory Interpretation of the Clean Air Act 929
Serves the Trump Administration's Deregulatory Agenda
Joseph Goffman & Laura Bloomer
- Evaluating Regulatory Performance: Learning from and Institutionalizing 971
Retrospective Analysis of EPA Regulations
Joseph E. Aldy
- Litigating EPA Rules: A Fifty-Year Retrospective of Environmental 1007
Rulemaking in the Courts
Cary Coglianese & Daniel E. Walters
- Toward a Role for Protest in Environmental Law 1039
Emily Hammond
- Polluting the EPA's Long Tradition of Economic Analysis 1063
Michael A. Livermore
- The EPA at Fifty: Time to Give Bootleggers the Boot! 1081
Brian F. Mannix
- It isn't Easy Being a Bureaucratic Expert: Celebrating the EPA's Innovations 1093
Wendy Wagner
- The New Revolving Door 1121
Michael P. Vandenberg, Jonathan M. Gilligan, & Haley Feuerman

The EPA as a Catalyst for the Development of Global Environmental Law 1151
Robert V. Percival

NOTES

Beyond *Chevron*: An Analysis of Idaho's Intermediate Deference Doctrine and 1193
Its Hypothetical Application in Federal Courts
Lacey Ferrara

Belt and Suspenders: Two Key Changes to Reduce Money Laundering Through 1225
Residential Real Estate
Christopher P. Lauer

COMMENT

A Comment on *DeRolph*'s Impacts on Ohio's School-Financing System, 1261
Twenty-Five Years Later
Jessica Ice

