Tribute to Professor Leon Gabinet

With contributions by Jonathan L. Entin, Erik M. Jensen, Lewis Katz, Donald L. Korb, and Barbara R. Snyder

Articles

Brenda M. Simon
Rules, Standards, and the Reality of Obviousness

Emily F. Suski
Beyond the Schoolhouse Gates: The Unprecedented Expansion of School Surveillance Authority Under Cyberbullying Laws

Jonathan Witmer-Rich
The Fatal Flaws of the “Sneak and Peek” Statute and How to Fix It

Notes

Michelle DeVito
The Judge Put Me on the List: Judicial Review and Organ Allocation Decisions

Tyler Quanbeck
Preventing Partisan Commitment: Applying Brady Protection to the Civil Commitment of Sex Offenders

Comment

Tyler J. Kimberly
A Higher Caliber of Regulation: Is Making Smart-Gun Technology Mandatory Constitutionally Permissible?
CASE WESTERN RESERVE UNIVERSITY
SCHOOL OF LAW FACULTY

Administrative Officers

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

Associate Dean for Academic Affairs
JONATHAN L. ENTIN, A.B., J.D.

Associate Dean for Faculty Development and Research
B. JESSIE HILL, B.A., J.D.

Interim Associate Dean for Experiential Education
JUDITH P. LIPTON, B.S., M.S.S.W., J.D.

Associate Dean for Enrollment Planning and Strategic Initiatives
ALYSON S. ALBER, B.S., J.D.

Associate Dean for Student Services
SARAH MCFARLANE POLLY, B.A., J.D.

Associate Dean for Development and Public Affairs
JT GARABRANT, B.S., C.F.R.E.

Assistant Dean of Admissions
KELLI C. CURTIS, B.A., J.D.

Assistant Dean of Career Development
DONNA DAVIS REDDIX, B.A., J.D.
Professors of Law

Jonathan H. Adler, B.A., J.D.
*Johann Verheij Professor and Director, Center for Business Law and Regulation*

Jessica Wilen Berg, B.A., J.D., M.P.H.
*Tom J.E. and Bette Lou Walker Professor; Professor of Bioethics and Public Health; Associate Director, Law-Medicine Center*

David J. Carney, B.A., J.D.

Juscelino F. Colares, LL.B., M.A., Ph.D., J.D.
*Associate Director, Frederick K. Cox International Law Center*

Jennifer I. Cupar, B.S., J.D.

George W. Dent, Jr., B.A., J.D., LL.M.
*Associate Director, Center for Business Law and Regulation*

Jonathan L. Entin, A.B., J.D.
*David L. Brennan Professor and Professor of Political Science*

Scott Fine, B.A., M.B.A.
*Professor for the Practice of Banking and Finance and Law*

Shannon E. French, B.A., Ph.D.
*Inamori Professor of Ethics; Professor of Law; and Director, Inamori International Center for Ethics and Excellence*

Peter M. Gerhart, B.A., J.D.

Paul C. Giannelli, B.A., M.S.F.S., J.D., LL.M.
*Distinguished University Professor and Albert J. Weatherhead III & Richard W. Weatherhead Professor*

Jonathan C. Gordon, B.A., J.D.

Richard K. Gordon, B.A., J.D.
*Associate Director, Frederick K. Cox International Law Center*

B. Jessie Hill, B.A., J.D.
*Laura B. Chisolm Distinguished Research Scholar*

Sharona Hoffman, B.A., J.D., LL.M.
*Edgar A. Hahn Professor; Professor of Bioethics; and Co-Director, Law-Medicine Center*

Daniel A. Jaffe, B.A., J.D.

Erik M. Jensen, S.B., M.A., J.D.
*Coleman P. Burke Professor*

Lewis R. Katz, A.B., J.D.
*John C. Hutchins Professor and Director, Graduate Program for Foreign Students in U.S. & Global Legal Studies*

Maureen Sheridan Kenny, B.A., J.D.

Juliet P. Kostritsky, A.B., J.D.
*Everett S. & Eugenia D. McCurdy Professor*
Raymond Shih Ray Ku, A.B., J.D.
   Director, Center for Cyberspace Law and Policy

Judith P. Lipton, B.S., M.S.S.W., J.D.
   Frank W. Vargo, Jr. Professor

Kenneth R. Margolis, B.A., J.D.

Kevin C. McMunigal, B.A., J.D.
   Judge Ben C. Green Professor

Laura E. McNally-Levine, B.A., J.D.
   Interim Co-Director, Milton A. Kramer Law Clinic Center

Maxwell J. Mehlman, B.A., J.D.
   Arthur E. Petersilge Professor; Professor of Bioethics; and Director, Law-Medicine Center

Kathryn S. Mercer, A.B., M.S.S.W., J.D., Ph.D.

Lawrence E. Mitchell, B.A., J.D.

Dale A. Nance, B.A., J.D., M.A.
   John Homer Kapp Professor

Craig Allen Nard, B.A., J.D., LL.M., J.S.D.
   Galen J. Roush Professor of Business Law and Regulation and Director, Spangenberg Center for Law, Technology, and the Arts

Cassandra Burke Robertson, B.A., M.A., M.P.Aff., J.D.

Matthew J. Rossman, B.A., J.D.
   Co-Director, Milton A. Kramer Law Clinic Center

Michael P. Scharf, A.B., J.D.
   Joseph C. Hostetler–BakerHostetler Professor; Director, Frederick K. Cox International Law Center; and Director, Henry T. King, Jr. War Crimes Research Office

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.

Martha A. Woodmansee, B.A., M.A., Ph.D.
   Professor of English and Law

Ruqaiijah A. Yearby, B.S., M.P.H., J.D.
   Associate Director, Law-Medicine Center


**Associate Professors of Law**

Brian K. Gran, B.A., J.D., Ph.D.  
*Associate Professor of Sociology and Law*

Kenneth F. Ledford, B.A., J.D., M.A., Ph.D.  
*Associate Professor of History and Law*

Aaron K. Perzanowski, A.B., J.D.

Andrew S. Pollis, A.B., J.D.

**Assistant Professors of Law**

Avidan Y. Cover, B.A., J.D.  
*Director, Institute for Global Security Law and Policy*

Charles R. Korsmo, S.B., J.D.  
*United States National Director, Canada-U.S. Law Institute*

Jack Turner II, B.A., J.D.

Timothy Webster, B.A., M.A., J.D., LL.M.  
*Director, China Law Program*

**Senior Instructors in Law**

Michael J. Benza, B.A., M.A., J.D.

Jaime Bouvier, B.A., J.D.

Carol T. Fox, B.A., M.A., Ph.D., J.D.

Carmen Naso, B.A., J.D.

Lisa M. Wood, B.A., J.D.

**Visiting Faculty**

Ayesha B. Hardaway, B.A., J.D.

Dalindyboe B. Shabalala, B.A., J.D.
Professors Emeriti

Arthur D. Austin II, B.A., J.D.
Edgar A. Hahn Professor Emeritus

Ronald J. Coffey, A.B., LL.B., LL.M.

Melvyn R. Durchslag, B.S., J.D.

Leon Gabinet, Ph.B., J.D.
Coleman P. Burke Professor Emeritus

Robert P. Lawry, B.A., J.D., Dip. Law
Director, Center for Professional Ethics

Wilbur C. Leatherberry, A.B., J.D.

James W. McElhaney, A.B., LL.B.
Joseph C. Hostetler Professor Emeritus of Trial Practice and Advocacy

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
TRIBUTE TO PROFESSOR LEON GABINET

Jonathan L. Entin 1
Erik M. Jensen 4
Lewis Katz 14
Donald L. Korb 18
Barbara R. Snyder 21

ARTICLES

Rules, Standards, and the Reality of Obviousness 25
Brenda M. Simon

Beyond the Schoolhouse Gates: The Unprecedented Expansion of School Surveillance Authority Under Cyberbullying Laws 63
Emily F. Suski

The Fatal Flaws of the “Sneak and Peek” Statute and How to Fix It 121
Jonathan Witmer-Rich

NOTES

The Judge Put Me on the List: Judicial Review and Organ Allocation Decisions 181
Michelle DeVito

Preventing Partisan Commitment: Applying Brady Protection to the Civil Commitment of Sex Offenders 209
Tyler Quanbeck

COMMENT

A Higher Caliber of Regulation: Is Making Smart-Gun Technology Mandatory Constitutionally Permissible? 251
Tyler J. Kimberly