

Volume 51
Number 1 *Fall 2016*

Fall 2016

Front Matter

Follow this and additional works at: <https://scholar.valpo.edu/vulr>



Part of the [Law Commons](#)

Recommended Citation

Front Matter, 51 Val. U. L. Rev. (2016).

Available at: <https://scholar.valpo.edu/vulr/vol51/iss1/1>

This Front Matter is brought to you for free and open access by the Valparaiso University Law School at ValpoScholar. It has been accepted for inclusion in Valparaiso University Law Review by an authorized administrator of ValpoScholar. For more information, please contact a ValpoScholar staff member at scholar@valpo.edu.



VALPARAISO UNIVERSITY LAW REVIEW

**VOLUME 51
Fall Issue
2016**

**VALPARAISO UNIVERSITY
LAW SCHOOL
VALPARAISO, INDIANA
2016**

VALPARAISO UNIVERSITY LAW REVIEW

LIFE PATRONS

DAVID & JOAN BAHLMANN Muncie, Indiana	CURTIS T. JONES Bose, McKinney & Evans, L.L.P. Indianapolis, Indiana	DONALD E. PREVALLET Reid, Burge, Prevallet & Coleman Blytheville, Arkansas
ROBERT A. BEER Cummings & Lockwood Newtown, Connecticut	ALFRED Y. KIRKLAND, JR. Brady & Jensen Elgin, Illinois	DONALD E. SCHLYER Valparaiso, Indiana
EUGENE E. BRASSFIELD Brassfield, Cowan & Howard Rockford, Illinois	WILLIAM P. KRATZKE Memphis, Tennessee	THE HONORABLE LOREN E. SCHNACK Quincy, Illinois
MARK J. BREMER Kohn, Shands, Elbert, Gianoulakis & Giljum St. Louis, Missouri	ALLEN L. LANDMEIER St. Charles, Illinois	ROBERT E.W. SCHNOOR Grand Rapids, Michigan
KENNETH R. BRUCE Babst, Calland, Clements & Zomnir Pittsburgh, Pennsylvania	PROFESSOR TERRY L. LANTRY Colorado State University College of Business Fort Collins, Colorado	EUGENE A. SCHOON Sidley Austin, L.L.P. Chicago, Illinois
DAVID G. CLARK Valparaiso, Indiana	FRANK LATTAL ACE Bermuda Insurance Ltd. Hamilton, Bermuda	ROBERT A. SEIDEL Lake Forest, Illinois
RICHARD W. DUESENBERG Monsanto Company St. Louis, Missouri	JACK W. LAWSON Fort Wayne, Indiana	GARY M. SELIG Indianapolis, Indiana
ROBERT H. DUESENBERG Oakton, Virginia	STEPHEN E. LEWIS Haller & Colvin Fort Wayne, Indiana	MICHAEL I. SWYGERT St. Petersburg, Florida
JEFFREY J. DYWAN Dyer, Indiana	MARY ANN LINK Richmond, Virginia	MATTHEW S. TARKINGTON Lewis & Kappes, P.C. Indianapolis, Indiana
THE HONORABLE HERBERT H. FREISE Seattle, Washington	THOMAS H. NELSON Portland, Oregon	NICK J. THIRO Cohen & Thiro Merrillville, Indiana
GENE H. HENNIG Gray Plant Mooty Minneapolis, Minnesota	EILEEN J. NEWHOUSE Owatonna, Minnesota	JEFFREY E. WALLACE Wyatt, Tarrant & Combs Louisville, Kentucky
JAYME WALKER HOLCOMB Woodbridge, Virginia	WADE R. NICHOLS Fishers, Indiana	JOHN W. YAKIMOW Synnestvedt Lechner & Woodbridge, L.L.P. Marshall, Michigan
JAY C. JOHNSON Texas Instruments, Inc. Plano, Texas	GEORGE C. PATRICK George C. Patrick & Associates, P.C. Crown Point, Indiana	GERI & RON YONOVER Chicago, Illinois
	JOHN R. PERA Crown Point, Indiana	JAMES W. ZERRENNER Grand Rapids, Michigan

et al.: Front Matter

BENEFACTORS

PETER L. KRENTZ
Krentz & Salfisberg,
Swanson, Haggard, P.C.
Plano, Illinois

THE HONORABLE
ROBERT C. PROBST
Kendallville, Indiana

CONTRIBUTING PATRONS

RICHARD S. EYNON
Columbus, Indiana

THOMAS K. HOFFMAN
Merrillville, Indiana

SUPPORTING PATRONS

JOHN J. HORELED
Crystal Lake, Illinois
RALPH R. HUFF
Jones Huff & Jones
Plymouth, Indiana

DANIEL J. KOZERA, JR.
Kozera & Associates, P.C.
Grand Rapids, Michigan
LINDSAY OGLE
Columbus, Nebraska

STEVEN E. WERMCRANTZ
Springfield, Illinois
PETER K. WILSON, JR.
Aurora, Illinois

The following published contributions reflect the views of the individual authors and do not necessarily represent the views of the *Valparaiso University Law Review*, its editors, or Valparaiso University.

Cite as 51 VAL. U. L. REV. 000

Copyright © 2016 by *Valparaiso University Law Review*

Except as otherwise expressly provided, the *Valparaiso University Law Review* has provided permission for copies of any article in this volume to be made and used by nonprofit educational institutions, provided that copies are distributed at or below cost, author and journal are identified, and proper notice of copyright is affixed to each copy.

ISSN 0042-2363

VALPARAISO UNIVERSITY LAW SCHOOL

UNIVERSITY OFFICERS

MARK A. HECKLER, M.F.A., PH.D.	<i>President</i>
MARK L. BIERMANN, PH.D.	<i>Provost and Executive Vice President for Academic Affairs</i>
DARRON FARHA, B.A., M.B.A., J.D.	<i>Vice President and University Counsel</i>
SUSAN SCROGGINS, M.B.A.	<i>Vice President for Finance and Administration</i>
LISA HOLLANDER, B.A.	<i>Vice President for Advancement</i>
BONNIE L. HUNTER, M.B.A.	<i>Vice President for Student Affairs</i>
MICHAEL JOSEPH, B.A., M.A.	<i>Vice President for Enrollment Management</i>
ANDREA D. LYON, B.A., J.D.	<i>Dean of the Law School</i>
DAVID R. CLEVELAND, J.D.	<i>Associate Dean for Academic Affairs of the Law School</i>
EMILY JANOSKI-HAEHLEN, J.D., M.S.L.S.	<i>Associate Dean for Library Services of the Law School</i>
DERRICK HOWARD, B.A., J.D.	<i>Associate Dean for Experiential Learning</i>
STEVEN R. PROBST, B.A., J.D., M.L.I.S.	<i>Assistant Dean for Students of the Law School</i>

THE LAW SCHOOL

FACULTY—2016-2017

NATALIE M. BANTA, <i>Assistant Professor of Law</i> Brigham Young University (B.S., 2006; J.D., 2009).
BRUCE G. BERNER, <i>Professor Emeritus of Law</i> Valparaiso University (B.A., 1965; LL.B., 1967); Yale Law School (LL.M., 1978).
ROBERT F. BLOMQUIST, <i>Professor of Law</i> University of Pennsylvania (B.S., 1973); Cornell University (J.D., 1977).
IVAN E. BODENSTEINER, <i>Professor Emeritus of Law</i> Loras College (B.A., 1965); University of Notre Dame (J.D., 1968).
PHILIPP L. BROCKINGTON, <i>Professor Emeritus of Law</i> Amherst College (B.A., 1962); Harvard University (J.D., 1965).
GENEVA BROWN, <i>Professor of Law</i> University of Wisconsin (B.A., 1988; J.D., 1993); University of Illinois-Chicago (M.A., 2004).
DERRICK AUGUSTUS CARTER, <i>Associate Professor of Law</i> Eastern Michigan University (B.S., 1972); Valparaiso University (J.D., 1975).
CURTIS W. CICHOWSKI, <i>Professor of Law</i> Carroll College (B.A., 1978); Valparaiso University (J.D., 1981).
DAVID R. CLEVELAND, <i>Associate Dean for Academic Affairs, Professor of Law, and Director of Legal Writing</i> Western Michigan University (B.A., 1998); Georgetown University Law Center (J.D., 2002).
LAURA GASTON DOOLEY, <i>Professor of Law</i> University of Arkansas (B.A., 1982); Washington University (J.D., 1986).
CHARLES A. EHREN, JR., <i>Professor Emeritus of Law</i> Columbia University (A.B., 1954; J.D., 1956).
EDWARD MCGLYNN GAFFNEY, JR., <i>Senior Research Professor of Law</i> St. Patrick's College (B.A., 1963); Gregorian University (S.T.L., 1967); Catholic University of America (J.D., 1974; M.A., 1975); Harvard University (LL.M., 1976).
MARCIA L. GIENAPP, <i>Professor Emerita of Law</i> Valparaiso University (B.A., 1973; J.D., 1977).
GEOFFREY HEEREN, <i>Associate Professor of Law and Michael and Dianne Swygert Teaching Fellow</i> University of Chicago (B.A., 1996); New York University (J.D., 2000).

- DAVID HERZIG, *Professor of Law and Michael and Dianne Swygert Research Fellow*
University of Louisville (B.A., 1993); University of Kentucky (J.D., 1997).
- DERRICK HOWARD, *Associate Dean for Experiential Learning and Associate Professor of Law*
University of Pittsburgh (B.A., 1987; J.D., 1990).
- REBECCA J. HUSS, *Professor of Law and Phyllis and Richard Duesenberg Chair in Law*
University of Northern Iowa (B.A., 1989); University of Richmond (J.D., 1992);
University of Iowa (LL.M., 1995).
- EMILY JANOSKI-HAEHLEN, *Associate Dean for Law Library Services, Assistant Professor of Law,
and Jack Hiller Distinguished Faculty Award Recipient*
University of Kentucky (B.S., 2002); Salmon P. Chase College of Law,
Northern Kentucky University (J.D., 2005); University of Kentucky (M.S.L.S., 2007).
- ROBERT H. KNOWLES, *Associate Professor of Law*
St. Olaf College (B.A., 1993); Northwestern University School of Law (J.D., 2001).
- PAUL M. KOHLHOFF, *Professor Emeritus of Law*
Purdue University (B.S., 1981); Valparaiso University (J.D., 1986).
- FAISAL KUTY, *Associate Professor of Law and Director of the International LL.M. Program*
University of Ottawa (J.D., 1994); Osgoode Hall Law School (LL.M., 2006);
Osgoode Hall Law School (Cand. Ph.D.).
- ROSALIE B. LEVINSON, *Senior Research Professor of Law*
Indiana University (B.A., 1969; M.A., 1970); Valparaiso University (J.D., 1973).
- JOELLEN L. LIND, *Professor Emerita of Law*
Stanford University (A.B., 1972); University of California-Los Angeles (J.D., 1975);
University of Utah (Cand. Ph.D.).
- SEYMOUR MOSKOWITZ, *Senior Research Professor of Law*
Columbia University (B.A., 1963); Harvard University (J.D., 1966).
- DAVID A. MYERS, *Professor Emeritus of Law*
Drake University (B.A., 1973); University of Illinois (J.D., 1976).
- CLARE KRAEGEL NUECHTERLEIN, *Distinguished Practitioner Emerita of Law*
Valparaiso University (B.A., 1972; M.A.L.S., 1975; J.D., 1979).
- MARY G. PERSYN, *Associate Professor Emerita of Law*
Creighton University (A.B., 1967); University of Oregon (M.L.S., 1969);
University of Notre Dame (J.D., 1982).
- JOHN J. POTTS, *Professor Emeritus of Law*
University of New Mexico (B.A., 1969); Boston College (J.D., 1974);
Northeastern University (M.S., 1975).
- BARBARA A. SCHMIDT, *Professor Emerita of Law*
Valparaiso University (B.A., 1970; J.D., 1973).
- RICHARD T. STITH III, *Senior Research Professor of Law*
Harvard University (A.B., 1965); University of California, Berkeley (M.A., 1967);
Yale University (M. Phil., 1971; Ph.D., 1973; J.D., 1973).
- MICHAEL S. STRAUBEL, *Professor of Law*
Western Michigan University (B.S., 1979); Marquette University (J.D., 1982);
McGill University (LL.M., 1989).
- SUSAN P. STUART, *Professor Emerita of Law*
DePauw University (B.A., 1973); Valparaiso University (M.Ed., 1976);
Indiana University-McKinney School of Law (J.D., 1982).
- MARY C. SZTO, *Associate Professor of Law*
Wellesley College (B.A. 1981); Westminster Theological Seminary (M.A., 1983);
Columbia University School of Law (J.D., 1986).
- D. A. JEREMY TELMAN, *Professor of Law*
Columbia University (B.A., 1985); Cornell University (M.A., 1989; Ph.D., 1993);
New York University (J.D., 1999).
- BERNARD TRUJILLO, *Professor of Law*
Princeton University (A.B., 1988); Yale Law School (J.D., 1992).

- RUTH C. VANCE, *Professor Emerita of Law*
Olivet College (B.A., 1979); Valparaiso University (J.D., 1982).
- DAVID E. VANDERCOY, *Professor Emeritus of Law*
Pennsylvania State University (B.A., 1971); Dickinson School of Law (J.D., 1974);
New York University (LL.M., 1980).
- DAVID WELTER, *Professor of Law*
Valparaiso University (B.A., 1983; J.D., 1990).
- LINDA S. WHITTON, *Professor Emerita of Law*
Valparaiso University (B.A., 1979; J.D., 1986).
- STEPHEN WILKS, *Associate Professor of Law*
Queens University (B.A., 1994, J.D., 1999); University of Toronto (M.S.W., 1996);
Osgoode Hall Law School (LL.M., 2007; Ph.D., 2011).
- DEL WRIGHT JR., *Associate Professor of Law*
University of Maryland (B.S., 1992); University of Chicago (J.D., 1996);
Harvard University (M.P.P., 1997).
- GERI J. YONOVER, *Professor Emerita of Law*
University of Chicago (B.A., 1964); IIT Chicago-Kent College of Law (J.D., 1983).

ADJUNCT FACULTY

- CONNIE L. BAUSWELL, *Adjunct Professor of Law*
University of Dallas (B.A. 1993); Indiana University–Mauer School of Law (J.D., 1996).
- SHELBE BYERS, *Adjunct Professor of Law*
Indiana University (B.S., 2005); Valparaiso University (J.D., 2008).
- PHILIP BRZOZOWSKI, *Adjunct Professor of Law*
Illinois Institute of Technology (B.S., 2001); The John Marshall Law School (J.D., 2008).
- JEANENE E. CALABRESE, *Adjunct Professor of Law*
St. Mary of the Woods College (B.S., 1984); Valparaiso University (J.D., 1990).
- KEVIN CAMDEN, *Adjunct Professor of Law*
Northern Illinois University (B.A., 1994); John Marshall Law School (J.D., 1997).
- PAUL CHERRY, *Adjunct Professor of Law*
Huntington College (B.A., 1973); Ohio Northern University (J.D., 1977).
- JEFF CLYMER, *Adjunct Professor of Law*
Kalamazoo College (B.A., 1983); Valparaiso University (J.D., 1992).
- SUSAN COLLINS, *Adjunct Professor of Law*
DePauw University (B.A., 1983); Drake University (J.D., 1986).
- JAMES DILLON, *Adjunct Professor of Law*
Indiana University (B.G.S., 2007); Valparaiso University (J.D., 2013).
- ELIZABETH FLORES, *Adjunct Professor of Law*
Purdue University (B.A., 1987); Valparaiso University (J.D., 1991).
- DANIEL A. GIOIA, *Adjunct Professor of Law*
Georgetown University (B.A., 1972); American University Law School (J.D., 1975).
- ALICIA HILTON, *Adjunct Professor of Law*
University of California at Berkeley (B.A., 1988); University of Chicago (J.D., 1997; M.A., 2009).
- DAVID L. HOLLENBECK, *Adjunct Professor of Law*
Valparaiso University (B.A., 1969; J.D., 1974).
- JAMES HOUGH, *Adjunct Professor of Law*
Grand Rapids Baptist College (B.A., 1994); Valparaiso University (J.D., 1998).
- ASHLEY HUEBNER, *Adjunct Professor of Law*
Marquette University (B.A., 2004); Boston University School of Law (J.D., 2007).
- HEIDI L. KEENAN, *Adjunct Professor of Law*
North Dakota State University (B.S., 1991); Valparaiso University (J.D., 2004).
- ROXANNE MELENDEZ-JOHNSON, *Adjunct Professor of Law*
University of Notre Dame (B.A., 1993); University of Arizona College of Law (J.D., 1999).

- ELIZABETH ADAMEC MOORE, *Adjunct Professor of Law*
Valparaiso University (B.A., 1999; J.D., 2007).
- LAKEISHA MURDAUAGH, *Adjunct Professor of Law*
Illinois State University (B.S., 1998); Valparaiso University (J.D., 2012).
- KERRY PANGERE, *Adjunct Professor of Law*
Purdue University (B.A., 1990); Valparaiso University (J.D., 1999).
- ROBERT F. PARKER, *Adjunct Professor of Law*
University of Notre Dame (B.A., 1974); Indiana University (J.D., 1977).
- JOHN SHANAHAN, *Adjunct Professor of Law*
Indiana University (B.A., 1977); Valparaiso University (J.D., 1985).
- MORRIS A. SUNKEL, *Adjunct Professor of Law*
University of Illinois (B.S., 1970); Valparaiso University (J.D., 1974);
The John Marshall Law School (LL.M., 1996).
- ADAM SWORDEN, *Adjunct Professor of Law*
Iowa State University (B.S., 2005); Valparaiso University (J.D., 2011).
- MICHAEL TOLBERT, *Adjunct Professor of Law*
Valparaiso University (B.A., 1997; J.D., 2000).
- SHELICE R. TOLBERT, *Adjunct Professor of Law*
Wittenberg University (B.A., 1997); Valparaiso University (J.D., 2000).
- SCOTT WAGENBLAST, *Adjunct Professor of Law*
Indiana University (B.M., 1989); Valparaiso University (J.D., 1993).
- KATHARINE E. WEHLING, *Visiting Assistant Professor of Law*
Arizona State University (B.A., 1979); Valparaiso University (J.D., 1983).

LIBRARIANS

- MICHAEL J. BUSHBAUM, *Associate Law Librarian for Access Services and Associate Professor*
University of Nevada, Reno (B.S., 1990); Northwestern School of Law of Lewis and
Clark College (J.D., 1993); University of Washington (M. Libr., 1994).
- DEBRA L. DENSLAW, *Faculty Services Librarian and Associate Professor*
Franklin College (B.A., 1979); Valparaiso University (J.D., 1989);
University of Illinois (M.S.L.I.S., 2003).
- NAOMI J. GOODMAN, *Associate Professor Emerita*
University of Queensland (B.A., 1968); University of New South Wales (Dip. L., 1969).
- SARAH G. HOLTERHOFF, *Associate Professor Emerita of Law Librarianship*
Ohio State University (B.S., 1970); University of Wisconsin-Milwaukee (M.A.L.S., 1975).
- EMILY JANOSKI-HAEHLEN, *Associate Dean for Library Services and Assistant Professor of Law*
University of Kentucky (B.S., 2002); Northern Kentucky University, Salmon P. Chase
College of Law (J.D., 2005); University of Kentucky (M.S.L.S., 2007).
- STEVEN R. PROBST, *Assistant Dean for Students, Educational Services Librarian,
and Associate Professor*
Valparaiso University (B.A., 1990; J.D., 2002); Dominican University (M.L.I.S., 2005).
- LARISSA SULLIVANT, *Cataloging and Acquisitions Librarian and Associate Professor*
Moscow State Linguistic University (B.A., 1984); Moscow State Institute for Foreign Tourism
(M.A., 1986); Wayne State University (M.L.I.S., 2000).

VALPARAISO UNIVERSITY LAW REVIEW

VOLUME 51

FALL 2016

NUMBER 1

EDITORIAL BOARD

Editor in Chief

KIRSTEN Z. MYERS

Associate Editor in Chief

NATALIE HOCH

Executive Managing Editor

BRIAN TUINENGA

Executive Editor of Lectures & Symposia

CALEB DETWEILER

Executive Editor of Student Writing

CATHERINE CATES

Executive Editor of Publication

KATLYN KRANIK

Executive Articles Editor

KATHERINE HAGANMAN

Executive Articles Editor

CHELSEA HILLMAN

ASSOCIATE EDITORS

ABBY SCOTT BUSLER

MANUELA CABAL CARMONA

NICHOLAS S. DEMARIO

DANIELLE DOBRY

TRAVIS GARNER

TALISHA GRIFFIN

JESS HUNTER-BOWMAN

THOMAS J. LYONS

ANDREW PAPPAS

IRENA STEFANOVSKI

MATTHEW S. THOR

FACULTY ADVISORS

EMILY JANOSKI-HAEHLEN

NATALIE M. BANTA

LIBRARY LIAISON

STEVEN R. PROBST

PUBLICATION ADMINISTRATOR

KAREN L. KOELEMAYER

NOTEWRITERS

JENNIFER L. CASSIDY

DONALD A. DECHERT III

MATTHEW D. HEBERT

KATIE KOPF

ELIZABETH LEWANDOWSKI

GREGORY MALESKA

YASMEEN NAOUM

BRANDON NIEZGODSKI

ERIC OPPLIGER

STEVEN PAKU

Member, National Conference of
Law Reviews

VALPARAISO UNIVERSITY LAW REVIEW

VOLUME 51

FALL 2016

NUMBER 1

CONTENTS

LECTURE

ONLINE DEFAMATION, LEGAL CONCEPTS, AND THE GOOD SAMARITAN

Benjamin C. Zipursky 1

TRANSCRIPT

MLK: HUMAN RIGHTS & DREAMS & METAPHORS OR . . . JUSTICE AS A VERB

Raymond M. Brown and Wanda Akin 57

NOTES

FACEBOOKING FROM THE GREAT BEYOND: THE PUSH TO AMEND INDIANA'S STATUTE
FOR OBTAINING ACCESS TO DIGITAL ASSETS

Catherine Cates 69

GRANTING PEOPLE SAFETY: GPS TRACKING FOR DOMESTIC VIOLENCE OFFENDERS

Katlyn Kranik 113

REMOVING THE MASS MISPERCEPTION: A CONSIDERATION OF MASS ENVIRONMENTAL
TORTS AND REMOVAL JURISDICTION UNDER THE CLASS ACTION FAIRNESS ACT

Kirsten Z. Myers 161

WRESTLING ANTAEUS: THE NECESSITY OF APPOINTED COUNSEL IN CIVIL TAX DISPUTES

Andrew Pappas 207

THIS IS NOT SPARTA: THE EXTENSIVE AND UNKNOWN INHERENT RISKS IN OBSTACLE
RACING

Matthew S. Thor 251

LOG IN TO THE DANGER ZONE: DATA PRIVACY UNDER THE SCA AND MICROSOFT

Brian Tuinenga 291

