

Boston College Law Review

Volume 58
Issue 6 *Electronic Supplement*

Article 16

5-4-2017

Front Matter

Boston College Law Review
Boston College Law School

Follow this and additional works at: <https://lawdigitalcommons.bc.edu/bclr>

Recommended Citation

Boston College Law Review, *Front Matter*, 58 B.C. L. Rev. (2017), <https://lawdigitalcommons.bc.edu/bclr/vol58/iss6/16>

This Front Matter is brought to you for free and open access by the Law Journals at Digital Commons @ Boston College Law School. It has been accepted for inclusion in Boston College Law Review by an authorized editor of Digital Commons @ Boston College Law School. For more information, please contact abraham.bauer@bc.edu.

BOSTON COLLEGE LAW REVIEW

Volume LVIII

2017

E. Supp.

ESSAYS

LEAP OF FAITH: DETERMINING THE STANDARD OF FAITH NEEDED TO VIOLATE THE IMPLIED COVENANT OF GOOD FAITH AND FAIR DEALING FOR DELAWARE LIMITED LIABILITY COMPANIES <i>Pat Andriola</i>	1
DECOUPLING VACCINE LAWS <i>Dorit Rubinstein Reiss</i>	9
THE OVERLOOKED DAISY CHAIN PROBLEM IN <i>SALMAN</i> <i>Franklin A. Gevurtz</i>	18
DISPELLING THE MYTH THAT LAW STUDENTS CAN CLOSE THE JUSTICE GAP <i>John P. Gross</i>	26
CONSTITUTIONAL LAW AND THE ROLE OF SCIENTIFIC EVIDENCE: THE TRANSFORMATIVE POTENTIAL OF <i>DOE V. SNYDER</i> <i>Melissa Hamilton</i>	34

COMMENTS

ANNUAL SURVEY OF FEDERAL EN BANC AND OTHER SIGNIFICANT CASES

THE CURE IS WORSE: FIRST CIRCUIT CIRCUMVENTS FALSE CLAIMS ACT'S FIRST-TO-FILE RULE IN <i>UNITED STATES EX REL. GADBOIS V. PHARMERICA CORP.</i> <i>Daniel Sorger</i>	43
ENJOYING YOUR "FREE" APP? THE FIRST CIRCUIT'S APPROACH TO AN OUTDATED LAW IN <i>YERSHOV V. GANNETT SATELLITE INFORMATION NETWORK, INC.</i> <i>Wendy Beylik</i>	60
TOO LITTLE SPACE: DOES A ZONING REGULATION VIOLATE THE SECOND AMENDMENT? <i>Jordan Lamson</i>	76

<p><i>BUT SEE KOHLHEIM: THE THIRD CIRCUIT MUDDIES THE WATER ON THE COMPENSABILITY OF EMPLOYEE MEAL PERIODS UNDER THE FAIR LABOR STANDARDS ACT IN <i>BABCOCK V. BUTLER COUNTY</i></i> <i>John A. LeBlanc</i>.....</p>	91
<p>THE CONSTITUTIONALITY OF THE IMMIGRATION AND NATIONALITY ACT CALLED INTO QUESTION AGAIN: THE NINTH CIRCUIT CORRECTLY HOLDS “OBSTRUCTION OF JUSTICE” RAISES GRAVE CONSTITUTIONAL CONCERNS IN <i>VALENZUELA GALLARDO V. LYNCH</i> <i>Taylor Gibson</i></p>	108
<p>THE ROLE OF ANTITRUST PRINCIPLES IN PATENT MONOPOLIES: THE THIRD CIRCUIT APPLIES ANTITRUST SCRUTINY TO NO-AG PATENT SETTLEMENTS IN <i>SMITHKLINE</i> <i>Meghan Fay</i></p>	128
<p>WEAPONIZING CITIZEN SUITS: SECOND CIRCUIT REVISES THE BURDEN OF PROOF FOR PROVING SHAM CITIZEN PETITIONS IN <i>APOTEX V. ACORDA THERAPEUTICS</i> <i>Franklin Liu</i></p>	147
<p>THIRD CIRCUIT CONFIRMS THE CLASS ARBITRATION “CLEAR AND UNMISTAKABLE STANDARD” IN <i>CHESAPEAKE APPALACHIA LLC V. SCOUT PETROLEUM LLC</i>, DEALING A BLOW TO CONSUMERS AND EMPLOYEES <i>Caitlin Toto</i></p>	163
<p>CREATING CONFUSION RATHER THAN CLARITY: THE SIXTH CIRCUIT’S (LACK OF) DECISION IN <i>TREE OF LIFE CHRISTIAN SCHOOLS V. UPPER ARLINGTON</i> <i>Lindsey Edinger</i></p>	182
<p>GOOD THINGS DON’T COME TO THOSE FORCED TO WAIT: DENIAL OF A LITIGANT’S REQUEST TO PROCEED ANONYMOUSLY CAN BE APPEALED PRIOR TO FINAL JUDGMENT IN THE WAKE OF <i>DOE V. VILLAGE OF DEERFIELD</i> <i>Chloe Booth</i></p>	205
<p>WHO NEEDS TO KNOW? THE SEVENTH CIRCUIT ACCEPTS INFORMATION SENT TO GOVERNMENT AS PUBLICLY DISCLOSED IN <i>CAUSE OF ACTION V. CHICAGO TRANSIT AUTHORITY</i> <i>Kurtis Brown</i></p>	224

CIRCUMSTANCES REQUIRING SAFEGUARDS: LIMITATIONS ON THE APPLICATION OF THE CATEGORICAL APPROACH IN <i>HERNANDEZ-ZAVALA V. LYNCH</i> <i>Kelly Morgan</i>	243
<i>ROSENFELD V. GLOBALTRANZ</i> : IS THE MANAGER RULE DEAD? THE NINTH CIRCUIT HOLDS THAT FAIR NOTICE IS THE APPROPRIATE TEST FOR WHETHER A MANAGERIAL EMPLOYEE’S ACTIVITY IS PROTECTED UNDER THE FLSA <i>Alyssa Fixsen</i>	266
DEFERENCE TO THE AGENCY IS THE BEST POLICY: THE D.C. CIRCUIT APPLIES <i>CHEVRON</i> IN DENYING ADDITIONAL MEDICARE REIMBURSEMENTS TO PROVIDER HOSPITALS IN <i>WASHINGTON REGIONAL MEDICORP</i> <i>Brandon Curtin</i>	289

Copyright © 2017 by Boston College Law School

The *Boston College Law Review* (ISSN 0161-6587) is published five times per year: January, March, May, September, and November; the *E. Supp.* is published annually. Both are published by Boston College Law School, 885 Centre Street, Newton Centre, Massachusetts 02459.

Except as otherwise expressly provided, the copyright holder grants permission to those who wish to make copies of Comments published in the *E. Supp.* for educational use, provided that 1) copies are distributed at or below cost, 2) the author and source are identified, and 3) proper notice of copyright is affixed to each copy. **This electronic supplement is to be cited as B.C. L. REV. E. SUPP.**

BOSTON COLLEGE LAW REVIEW

Volume LVIII

2017

E. Supp.

Thanithia Billings
Editor in Chief

Erin Garrity
Managing Editor

Thomas Murphy
Managing Editor

Hana Sahdev
Managing Editor

James Bor
Executive Articles Editor

Amelia M. Wirts
Executive Articles Editor

Michael Hacker
Executive Notes Editor

Marnee Rand
Executive Comments Editor

Sean Feener
Senior Online Editor

Articles Editors

James Adams
Nicholas Green
Danielle Haikal
Adam Levitsky

Jacob Love
Sonja Marrett
Joshua Moore

Catherine O'Neill
Alexander Porter
Brian Shaud
Laura Zapata-Kim

Senior Editors

Maria Colella
Danielle Crinnion
Matthew DeSilva
Michael Hanify
Liam Holland

Patrick Kessock
Stephen LaBrecque
Robert Linnoila
Christopher Modlish

Michael Patnode
Alexander Plushanski
John Potapchuk
Maria Stracqualursi
Charanya Viswanathan

Staff Writers

Nicholas Anastasi
Nicholas Baker
Wendy Beylik
Chloe Booth
Kurtis Brown
Daniel Cahill
Thomas Carlton
Brandon Curtin
Samantha Cutler
Brian Durkin
Lindsey Edinger
Meghan Fay

Thomas Fiascone
Alyssa Fixsen
T. Patrick Ford
Taylor Gibson
Vaishali Goyal
Lauren Hadiaris
Mark Hayden
Theodore Kaminski
Sean Kennedy
Jamie Kurtz
Jordan Lamson

John LeBlanc
Franklin Liu
Jonathan Mangel
David Miller
Kelly Morgan
Shannon Nelson
Matthew Rapkowski
Daniel Sorger
Erika Steinbauer
Anna Stuart
Caitlin Toto
Katie Warren

Daniel Lyons
Faculty Advisor

Patricia McCoy
Faculty Advisor

David Olson
Faculty Advisor

Nick Szydowski
Webmaster

John Gordon
Director, Law Review Publications

Patricia Dickerson
Library Liaison

BOSTON COLLEGE LAW SCHOOL

ADMINISTRATION

WILLIAM P. LEAHY, S.J., B.A., M.A., M.Div., S.T.L., Ph.D., President
MICHAEL J. LOCHHEAD, B.S., M.B.A., Executive Vice President
DAVID QUIGLEY, M.A., Ph.D., Provost, Dean of Faculties
VINCENT D. ROUGEAU, A.B., J.D., Dean
ALFRED C. YEN, B.S., M.S., J.D., Associate Dean for Faculty
MARIS ABBENE, B.A., J.D., Associate Dean for Academic, Career & Student Services
FILIPPA MARULLO ANZALONE, A.B., M.S.L.S., J.D., Associate Dean for Library & Computing Services
BRIAN J.M. QUINN, B.S.F.S., M.P.P., J.D., M.L.S., Associate Dean of Experiential Learning
JOHN P. STACHNIEWICZ, A.B., M.A., Associate Dean for Finance & Administration
MEREDITH RYAN, B.A., Assistant Dean for Finance & Administration
JESSICA CASHDAN, B.A., M.A., Executive Director of Advancement & Associate Dean
TRACEY WEST, B.A., J.D., Associate Dean for External Relations, Diversity & Inclusion
SHAWN MCSHAY, B.A., Assistant Dean for Admissions & Financial Aid
HEATHER HAYES, B.A., J.D., Assistant Dean for Career Services
JOHN A. GORDON, B.S., J.D., Director of Law Review Publications
FREDERICK M. ENMAN, S.J., B.A., J.D., Special Assistant to the Dean for Students

FULL-TIME FACULTY

RICHARD ALBERT, B.A., B.C.L., J.D., LL.M.,
Associate Professor of Law
ALEXIS ANDERSON, B.A., M.A., J.D., Associate
Clinical Professor of Law
FILIPPA MARULLO ANZALONE, A.B., M.S.L.S.,
J.D., Professor of Law
PAULO BARROZO, LL.B., M.Jur., Ph.D., LL.M.,
S.J.D., Associate Professor of Law
SHARON BECKMAN, A.B., J.D., Associate
Clinical Professor of Law
MARY SARAH BILDER, B.A., A.M., J.D., Ph.D.,
Founders Professor of Law
ROBERT M. BLOOM, B.S., J.D., Professor of Law
E. JOAN BLUM, A.B., J.D., Associate Professor of
Legal Reasoning, Research & Writing
CHERYL S. BLATT, B.A., J.D., Assistant Professor
of Legal Reasoning, Research & Writing
MARK S. BRODIN, B.A., J.D., Professor of Law
GEORGE D. BROWN, A.B., J.D., Robert Drinan,
S.J. Professor of Law
R. MICHAEL CASSIDY, B.A., J.D., Professor of
Law
MARY ANN CHIRBA, B.A., M.P.H., Sc.D., J.D.,
Professor of Legal Reasoning, Research &
Writing
JEFFREY M. COHEN, B.A., M.St., J.D., Assistant
Professor of Legal Reasoning, Research &
Writing
DANIEL R. COQUILLETTE, A.B., B.A., M.A.,
J.D., J. Donald Monan, S.J. Professor of Law
SCOTT T. FITZGIBBON, B.A., J.D., B.C.L.,
Professor of Law
FRANK J. GARCIA, B.A., J.D., Professor of Law
KENT GREENFIELD, A.B., J.D., Professor of Law
DEAN M. HASHIMOTO, A.B., M.S., M.P.H.,
M.D., J.D., Associate Professor of Law
FRANK R. HERRMANN, S.J., A.B., M.Div., J.D.,
Associate Professor of Law
INGRID M. HILLINGER, A.B., J.D., Professor of
Law
MARY HOLPER, B.A., J.D., Associate Clinical
Professor; Director, Immigration Clinic
KARI E. HONG, A.B., J.D., Assistant Professor of
Law
RENEE M. JONES, A.B., J.D., Professor of Law
DANIEL KANSTROOM, B.A., J.D., LL.M.,
Professor of Law
M. CATHLEEN KAVENY, A.B., M.A., J.D.,
Ph.D., Ph.D., Darald & Juliet Libby Professor
of Law
ELISABETH KELLER, B.A., M.A., J.D., Associate
Professor of Legal Reasoning, Research &
Writing
THOMAS C. KOHLER, B.A., J.D., LL.M.,
Professor of Law
JOSEPH P. LIU, B.A., J.D., LL.M., Professor of
Law
DANIEL LYONS, A.B., J.D., Associate Professor of
Law
RAY D. MADOFF, A.B., J.D., LL.M., Professor of
Law
PATRICIA A. McCOY, B.A., J.D., Liberty Mutual
Insurance Professor of Law
JUDITH A. McMORROW, B.A./B.S., J.D.,
Professor of Law
ALAN D. MINUSKIN, B.A., J.D., Associate
Clinical Professor of Law
DAVID OLSON, B.A., J.D., Associate Professor of
Law
LYNNISE E. PANTIN, B.A., J.D., Associate
Clinical Professor of Law
VLAD PERJU, LL.B., LL.M., S.J.D., Associate
Professor of Law
ZYGUMUNT J.B. PLATER, B.A., J.D., LL.M.,
S.J.D., Professor of Law
BRIAN J.M. QUINN, B.S.F.S., M.P.P., J.D., M.L.S.,
Associate Professor of Law
JAMES R. REPETTI, A.B., M.B.A., J.D., William J.
Kenealy, S.J. Professor of Law
DIANE RING, A.B., J.D., Professor of Law
JAMES STEVEN ROGERS, A.B., J.D., Professor of
Law
EVANGELINE SARDA, B.A., J.D., Associate
Clinical Professor of Law
FRANCINE SHERMAN, B.A., J.D., Associate
Clinical Professor, Director, Juvenile Rights
Advocacy Project
NATALYA SHNITSER, B.A., M.A., J.D., David &
Pamela Donohue Assistant Professor of Law
MARK SPIEGEL, A.B., J.D., Professor of Law
JUDITH B. TRACY, B.A., J.D., Associate Professor
of Legal Reasoning, Research & Writing
PAUL R. TREMBLAY, B.A., J.D., Clinical
Professor of Law
CATHARINE WELLS, B.A., M.A., Ph.D., J.D.,
Professor of Law
RYAN WILLIAMS, B.A., J.D., Assistant Professor
of Law
DAVID A. WIRTH, A.B., A.M., J.D., Professor of
Law
ALFRED C. YEN, B.S., M.S., J.D., Professor of
Law
KATHARINE G. YOUNG, B.A., LL.B., S.J.D.,
LL.M., Associate Professor of Law