



---

Fall 9-1-2016

## Masthead and Front Matter

Follow this and additional works at: <https://scholarlycommons.law.wlu.edu/wlulr>

---

### Recommended Citation

*Masthead and Front Matter*, 73 Wash. & Lee L. Rev. (2016).

Available at: <https://scholarlycommons.law.wlu.edu/wlulr/vol73/iss4/1>

This Prefatory Matter is brought to you for free and open access by the Washington and Lee Law Review at Washington and Lee University School of Law Scholarly Commons. It has been accepted for inclusion in Washington and Lee Law Review by an authorized editor of Washington and Lee University School of Law Scholarly Commons. For more information, please contact [christensena@wlu.edu](mailto:christensena@wlu.edu).

# WASHINGTON AND LEE LAW REVIEW

---

Volume 74

---

EDITOR IN CHIEF

D. McNair Nichols, Jr., *of Virginia*

EXECUTIVE EDITORS

Lucas M. Barta, *of Virginia*  
Leanna C. Minix, *of Virginia*

MANAGING EDITORS

Anne M. Anderson, *of Colorado*  
Arthur R. Vorbrodt, *of New Jersey*

SENIOR ARTICLES EDITORS

Peter M. Szeremeta, *of Virginia*  
Jessica A. Winn, *of Oregon*

MANAGING ONLINE EDITORS

Andrea I. Marshall, *of New York*  
Daniel J. Martin, *of Virginia*

SYMPOSIUM EDITOR

Mitchell D. Diles, *of Ohio*

LEAD ARTICLES EDITORS

Kiersty M. DeGroot, *of S. Carolina*  
Lauren A. Michnick, *of Maryland*  
Brent M. Phipps, *of District of Columbia*  
Kevin Rickert, *of Pennsylvania*

William C. Simmerson, *of N. Carolina*  
James E. Simon, *of N. Carolina*  
Ashley C. Slisz, *of New York*  
Clinton T. Williams, *of California*

ONLINE LEAD ARTICLES EDITORS

Ann Stuart Cox, *of Virginia*  
Jenna M. Lorence, *of Virginia*

SENIOR EDITOR

Alexandra L. Klein, *of Virginia*

STAFFWRITERS

Aileen A. Almonte, *of New York*  
Shaun M. Bennett, *of New Jersey*  
Dioscoro A. Blanco, *of Virginia*  
Christopher C. Brewer, *of West Virginia*  
Matthew C. Donahue, *of California*  
Roland O. Hartung, *of District of Columbia*  
Christopher A. Hurley, *of Virginia*  
Isak Khorets, *of New Jersey*  
Stephen C. Kindermann, *of Maryland*  
Ross L. Lafour, *of Texas*  
Brett L. Lawrence, *of Florida*  
Alexander G. Lewitt, *of Florida*  
Corey M. Lipschutz, *of New Jersey*

Christopher C. Losito, *of Connecticut*  
Morris E. McCrary, *of Virginia*  
Benjamin S. Nye, *of Arkansas*  
D. Lesesne Phillips, *of S. Carolina*  
Taylor D. Rafaly, *of Virginia*  
Alix M. Sirota, *of Pennsylvania*  
Emily M. Springer, *of Ohio*  
Jonathan C. Stanley, *of Utah*  
Katheryn P. Thomas, *of West Virginia*  
Peter T. Thomas, *of Alabama*  
Martha G. Vázquez, *of Pennsylvania*  
Spencer T. Wiles, *of N. Carolina*  
Catherine E. Woodcock, *of Florida*

FACULTY ADVISOR

Christopher Seaman

ADMINISTRATIVE ASSISTANT

Lisa A. Gearheart

# WASHINGTON AND LEE LAW REVIEW

---

## ARTICLES

The “Ample Alternative Channels” Flaw  
in First Amendment Doctrine

*Enrique Armijo*

Intrapreneurship

*Darian M. Ibrahim*

Diversifying to Mitigate Risk: Can Dodd–Frank  
Section 342 Help Stabilize the Financial Sector?

*Kristin Johnson*

*Steven A. Ramirez*

*Cary Martin Shelby*

The Rhetoric of the Fourth Amendment: Toward a  
More Persuasive Fourth Amendment

*Timothy C. MacDonnell*

Realizing Rationality: An Empirical Assessment of  
International Commercial Mediation

*S.I. Strong*

## NOTES

Guns and Alienage: Correcting a  
Dangerous Contradiction

*D. McNair Nichols, Jr.*

A Firm Law for Sanctions: Taking a Stance on  
Whether 28 U.S.C. § 1927 Should Apply  
to Law Firms

*Jessica A. Winn*

# WASHINGTON AND LEE UNIVERSITY SCHOOL OF LAW

The LAW ALUMNI ASSOCIATION assists the School of Law by providing the following:

- Scholarships for students of the School of Law
- Faculty Fellowships to recognize excellence in teaching

## THE LAW ALUMNI ASSOCIATION

*solicits your membership and  
support of the Law Annual Fund*

Your contributions to the Law Annual Fund go toward Law Alumni Association Tuition Scholarships, named after Catherine F. McDowell and Charles P. Light, and Faculty Fellowships. Your contributions also help the School maintain its small classes, low faculty-to-student ratio, and one-on-one attention. The Law Annual Fund enriches the Law School in hundreds of significant ways and makes a critical difference in our ability to fulfill our mission.

You may send your contribution to Washington and Lee University School of Law, 204 West Washington Street, Lewis Hall 517, Lexington, VA 24450, or you may give online at <http://law.wlu.edu/give>.

Questions? Need more information? Please contact Elizabeth Outland Branner, Assistant Dean for Law School Advancement, at (540) 458-8191 or [brannere@wlu.edu](mailto:brannere@wlu.edu).

***On behalf of our students, thank you for your support!***

***Administration and Faculty, Washington and Lee School of Law 2016–2017***

***Washington and Lee University***

---

**KENNETH P. RUSCIO, B.A., M.P.A., Ph.D.**  
*President of the University*

***Deans and Administrative Department Heads***

---

**BRANT J. HELLWIG, B.S., J.D., LL.M.**  
*Dean and Professor of Law*

**JOHANNA BOND, B.A., J.D.**  
*Associate Dean for Academic Affairs and Professor of Law*

**PAUL ROLLINS, B.A., J.D.**  
*Associate Dean for Administration & Student Affairs*

**ELIZABETH BRANNER, B.A., M.B.A.**  
*Assistant Dean for Law School Advancement*

**CLIFF JARRETT, B.A., J.D.**  
*Assistant Dean, Office of Career Strategy*

**PETER T. JETTON, B.A., M.A.**  
*Senior Director of Law Communications*

**MARY Z. NATKIN, B.A., J.D.**  
*Clinical Professor of Law and Director of Academic Success*

**CAROLINE OSBORNE, B.A., J.D., LL.M., M.S.L.S.**  
*Assistant Dean for Legal Information Services and Professor of Legal Research*

***Emeritus Faculty***

---

**DENIS J. BRION, B.S., J.D.**  
*Professor of Law, Emeritus*

**WILLIAM S. GEIMER, B.S., J.D.**  
*Professor of Law, Emeritus*

**EDWARD O. HENNEMAN, B.A., J.D.**  
*Associate Professor of Law, Emeritus*

**TIMOTHY S. JOST, B.A., J.D.**  
*Professor of Law, Emeritus*

**FREDERIC L. KIRGIS, B.A., J.D.**  
*Professor of Law, Emeritus*

**LEWIS H. LARUE, A.B., LL.B.**  
*Professor of Law, Emeritus*

**ANN MACLEAN MASSIE, B.A., M.A., J.D.**  
*Professor of Law, Emerita*

**ANDREW W. MCTHENIA, JR., A.B., M.A., LL.B.**  
*Professor of Law, Emeritus*

**JAMES M. PHEMISTER, B.S., J.D.**  
*Professor of Law, Emeritus*

**JOSEPH E. ULRICH, B.A., J.D.**  
*Professor of Law, Emeritus*

***Permanent Faculty***

---

**DAVID BALUARTE, B.A., J.D.**  
*Associate Clinical Professor of Law and Director, Immigrant Rights Clinic*

**C. ELIZABETH BELMONT, B.A., J.D.**  
*Clinical Professor of Law and Director, Community Legal Practice Center*

**DAVID I. BRUCK, B.A., J.D.**  
*Clinical Professor of Law and Director, Virginia Capital Case Clearinghouse*

**CHRISTOPHER M. BRUNER, A.B., M.Phil., J.D.**  
*William Donald Bain Family Professor of Corporate Law and Director, Frances Lewis Law Center*

***Administration and Faculty, Washington and Lee School of Law 2016–2017***

**SAMUEL W. CALHOUN, B.A., J.D.**

*Class of 1960 Professor of Ethics and Law*

**ROBERT T. DANFORTH, B.A., J.D.**

*Professor of Law*

**NORA V. DEMLEITNER, B.A., J.D., LL.M.**

*Roy L. Steinheimer, Jr. Professor of Law*

**MARK A. DRUMBL, B.A., M.A., J.D., LL.M., J.S.D.**

*Class of 1975 Alumni Professor of Law and Director, Transnational Law Institute*

**MICHELLE L. DRUMBL, B.A., J.D., LL.M.**

*Clinical Professor of Law and Director, Tax Clinic*

**JOSHUA A.T. FAIRFIELD, B.A., J.D.**

*Professor of Law*

**JILL M. FRALEY, B.A., J.D., LL.M., J.S.D.**

*Associate Professor of Law*

**MARK H. GRUNEWALD, B.A., J.D.**

*James P. Morefield Professor of Law*

**MARGARET HOWARD, A.B., J.D., M.S.W., LL.M.**

*Law Alumni Association Professor of Law*

**MARGARET HU, B.A., J.D.**

*Assistant Professor of Law*

**LYMAN P.Q. JOHNSON, B.A., J.D.**

*Robert O. Bentley Professor of Law*

**JOHN D. KING, B.A., J.D., LL.M.**

*Clinical Professor of Law, Director of Experiential Education and Director, Criminal Justice Clinic*

**TIMOTHY C. MACDONNELL, B.A., J.D., LL.M., LL.M.**

*Associate Clinical Professor of Law and Director, Advanced Administrative Litigation Clinic (Black Lung)*

**RUSSELL A. MILLER, B.A., J.D., M.A., LL.M.**

*Professor of Law*

**DAVID MILLON, B.A., M.A., Ph.D., J.D.**

*J.B. Stombock Professor of Law*

**JAMES E. MOLITERNO, B.S., J.D.**

*Vincent Bradford Professor of Law*

**BRIAN C. MURCHISON, B.A., J.D.**

*Charles S. Rowe Professor of Law*

**KISH PARELLA, B.A., M.Phil., J.D., LL.M.**

*Associate Professor of Law*

**DOUG RENDLEMAN, B.A., M.A., J.D., LL.M.**

*Robert E.R. Huntley Professor of Law*

**VICTORIA SHANNON SAHANI, B.A., J.D.**

*Associate Professor of Law*

**CHRISTOPHER B. SEAMAN, B.A., J.D.**

*Associate Professor of Law*

**JOAN M. SHAUGHNESSY, B.A., J.D.**

*Roger D. Groot Professor of Law*

**SARAH K. WIANT, B.A., M.L.S., J.D.**

*Professor of Law*

***Visiting and Extended Faculty***

---

**MELINA CONSTANTINE BELL, B.A., J.D., M.P.H., M.A., Ph.D.**

*Associate Professor of Philosophy and Associate Professor of Law (by courtesy)*

**MICHAL BUCHHANDLER-RAPHAEL, LL.B., LL.M., LL.M., S.J.D.**

*Visiting Assistant Professor of Law*

***Administration and Faculty, Washington and Lee School of Law 2016–2017***

**ALBERT V. CARR, B.A., J.D.**

*Visiting Professor of Law*

**DAVID EGGERT, B.A., J.D.**

*Visiting Professor of Law*

**DANIEL EVANS, B.A., B.S., J.D.**

*Visiting Professor of Law*

**CHIEF JUSTICE DONALD W. LEMONS, B.A., J.D.**

*Distinguished Professor of Judicial Studies*

**TODD C. PEPPERS, B.A., J.D., Ph.D.**

*Visiting Professor of Law*

**THOMAS H. RICE, B.A., J.D.**

*Visiting Professor of Law*

**JONATHAN SHAPIRO, B.A., J.D.**

*Visiting Professor of Law*

**CHRISTOPHER J. WHELAN, LL.B., Ph.D.**

*Visiting Professor of Law*

***Adjunct and Extended Faculty***

---

**JONATHAN M. APGAR, B.A., J.D.**

*Professor of Practice*

**NEIL V. BIRKHOFF, B.A., J.D., LL.M.**

*Adjunct Professor of Law*

**JOEL BLECHER, B.A., M.A., Ph.D.**

*Assistant Professor of Religion and Adjunct Professor of Law*

**BRYAN A. BONNER, B.A., J.D.**

*Professor of Practice*

**KELLY BROTZMAN, B.A., M.A., Ph.D.**

*Adjunct Professor Law*

**R. EDWIN BURNETTE, JR., B.A., J.D.**

*Professor of Practice*

**DAVID B. CARSON, B.A., J.D.**

*Professor of Practice*

**JOHN H. CRADDOCK, JR., B.S.E., J.D., LL.M.**

*Professor of Practice*

**MICHELLE CRADDOCK, B.S., J.D.**

*Professor of Practice*

**DAVID DE JONG, B.A., J.D., LL.M.**

*Professor of Practice*

**CHARLES DORSEY, B.A., J.D.**

*Professor of Practice*

**HANS PETER DYKE, B.A., J.D.**

*Professor of Practice*

**KELLY L. FAGLIONI, B.A., J.D.**

*Professor of Practice*

**C. REID FLINN, B.A., J.D.**

*Adjunct Professor of Law*

**ANDREW FOX, B.A., M.S., J.D.**

*Professor of Practice*

**HENOK GABISA, LL.B/J.D., LL.M.**

*Visiting Academic Fellow*

**LETHIA C. HAMMOND, B.A., J.D.**

*Adjunct Professor of Law*

**PATRICK R. HANES, B.A., J.D.**

*Professor of Practice*

**JARED HEMBREE, B.A., J.D.**

*Adjunct Professor of Law*

*Administration and Faculty, Washington and Lee School of Law 2016–2017*

**JERALD HESS, B.A., J.D.**

*Professor of Practice*

**TRICIA A. HOEFLING, B.S., J.D.**

*Professor of Practice*

**TIMOTHY KEEFER, B.A., J.D.**

*Adjunct Professor of Law*

**TOYJA KELLEY, B.A., J.D.**

*Professor of Practice*

**CHARLES T. KOTUBY, B.A., J.D., LL.M.**

*Professor of Practice*

**REX LAMB, B.A., J.D.**

*Professor of Practice*

**GARREN LAYMON, B.S., J.D.**

*Professor of Practice*

**MATTHEW LIGHT, B.A., J.D.**

*Professor of Practice*

**TIMOTHY LUBIN, B.A., M.T.S., Ph.D.**

*Adjunct Professor of Law*

**JAMES E. MAHON, B.A., M.Phil., Ph.D.**

*Adjunct Professor of Law*

**JOHN LAWRENCE MANNING, B.S., LL.B., J.D.**

*Adjunct Professor of Law*

**HARDIN MARION, B.A., LL.B.**

*Professor of Practice*

**CHARLIE MARTEL, M.A., J.D.**

*Professor of Practice*

**WILLIAM A. MCGRATH, B.F.A., J.D.**

*Professor of Practice*

**KATHERINE MCKNIGHT, B.A., J.D.**

*Professor of Practice*

**MICHAEL J. MICHAELLES, B.A., J.D.**

*Professor of Practice*

**JOHN J. MILES, B.S., M.A., J.D.**

*Adjunct Professor of Law*

**PHYLISSA D. MITCHELL, B.A., J.D.**

*Adjunct Professor of Law*

**FRANK W. MORRISON, B.A., J.D.**

*Adjunct Professor of Law*

**LAWRENCE LLOYD MUIR, JR., B.A., J.D.**

*Adjunct Professor of Law*

**STEPHEN WILLS MURPHY, B.A., M.Phil., Ph.D., J.D.**

*Adjunct Professor of Law*

**J. ROSS NEWELL, III, B.A., J.D.**

*Professor of Practice*

**CAROL D. NEWMAN, B.A., Ph.D., J.D.**

*Professor of Practice*

**BRIAN PATRICK NICHOLSON, B.A., J.D.**

*Professor of Practice*

**JAMES J. O'KEEFFE, B.A., J.D.**

*Professor of Practice*

**HADLEY PERKINS, B.A., J.D.**

*Professor of Practice*

**HOWARD PICKETT, B.A., M.A., Ph.D.**

*Director and Assistant Professor, Shepard Program and Adjunct Professor of Law*

**CLARA MARIA POFFENBERGER, B.A., M.A., J.D.**

*Adjunct Professor of Law*



*Administration and Faculty, Washington and Lee School of Law 2016–2017*

**GRAHAM PRICHARD, B.A., J.D.**

*Adjunct Professor of Law*

**ANTHONY H. RICKERT, B.A., J.D.**

*Professor of Practice*

**TIM RUEBKE, A.A., B.S.W., M.A.**

*Adjunct Professor of Law*

**CHRISTOPHER B. RUSSELL, A.B., J.D.**

*Professor of Practice*

**KRISTINA D. RUTLEDGE, B.A., J.D.**

*Adjunct Professor of Law*

**MONICA SANDERS, B.S., J.D., LL.M.**

*Professor of Practice*

**GILBERT E. SCHILL, JR., B.A., J.D.**

*Professor of Practice*

**JAMES S. SEEVERS, JR., B.A., J.D.**

*Professor of Practice*

**GUY BRYAN SEREFF, II, B.S., J.D.**

*Professor of Practice*

**LUKE A. SOBOTA, B.A., J.D.**

*Professor of Practice*

**GREGORY N. STILLMAN, B.A., J.D.**

*Professor of Practice*

**C.J. STEUART THOMAS, III, B.A., J.D.**

*Professor of Practice*

**KING F. TOWER, B.A., J.D.**

*Adjunct Professor of Law*

**DANIEL J. VICTOR, B.A., J.D.**

*Professor of Practice*

**ED WALKER, B.A., J.D.**

*Professor of Practice*

**HOWARD WALL, B.A., J.D.**

*Professor of Practice*

**WILLIAM P. WALLACE, JR., B.A., J.D.**

*Professor of Practice*

**ELIZABETH BURGIN WALLER, B.A., J.D.**

*Adjunct Professor of Law*

**DAVID G. WEAVER, B.A., J.D.**

*Professor of Practice*

**MARK A. WILLIAMS, B.A., J.D., M.B.A.**

*Professor of Practice*

**R. CRAIG WOOD, B.A., M.Ed., J.D.**

*Professor of Practice*

**ROBERT C. WOOD, III, B.A., LL.B.**

*Adjunct Professor of Law*

**HENRY L. WOODWARD, A.B., LL.B.**

*Professor of Practice*

**CHARLES L. WOODY, B.A., J.D.**

*Professor of Practice*

**JASON WRIGHT, B.S., J.D., M.St.**

*Professor of Practice*

**JULIE YOUNGMAN, B.A., M.A., J.D.**

*Visiting Assistant Professor of Business Law and Adjunct Professor of Practice*

**Each year, the Frances Lewis Law Center, the Washington and Lee Law Review, and other Washington and Lee University School of Law organizations co-sponsor the Lara D. Gass Symposium, examining prospects for change in an important area of the law.**

**Forthcoming Lara D. Gass Symposium**

*Corporate Law, Governance, and Purpose:* Volume 74:2 (2017)  
*A Tribute to the Scholarship of* Forthcoming  
*Lyman Johnson and David Millon*

**Previous Major Symposia**

*From Conviction to Clemency: Commonwealth v. Giarrantano—A Case Study in the Modern Death Penalty* (February 5–6, 2016) Volume 73:3 (2016)

*Cybersurveillance in the Post-Snowden Age* (January 22–23, 2015) Volume 72:3 (2015)

*Roe at 40: The Controversy Continues* (November 7–8, 2013) Volume 71:2 (2014)

*Gideon at 50: Reassessing the Right to Council* (November 8–9, 2012) Volume 70:2 (2013)

*Regulation in the Fringe Economy* (November 10–11, 2011) Volume 69:2 (2012)

*Restitution Rollout: The Restatement (Third) of Restitution & Unjust Enrichment* (February 25, 2011) Volume 68:3 (2011)

*Prosecutorial Power: A Transnational Symposium* (April 1–2, 2010) Volume 67:4 (2010)

*Protecting Virtual Playgrounds: Children, Law, and Play Online* (October 3, 2008) Volume 66:3 (2009)

**For information about upcoming symposia, please contact:**

Wendy Rice, Frances Lewis Law Center, Washington and Lee University School of Law, 1 Denny Circle, Lexington, Virginia 24450; (540) 458-8568.

**To obtain *Washington and Lee Law Review* symposia issues, please contact:** Washington and Lee Law Review, Room 408, Washington and Lee University School of Law, 1 Denny Circle, Lexington, Virginia 24450; (540) 458-8566.

## WASHINGTON AND LEE LAW REVIEW

**Statement of Ownership, Management, and Circulation:** The *Washington and Lee Law Review* (ISSN 0043-0463) is owned by Washington and Lee University and is published quarterly by students of Washington and Lee University School of Law. The *Law Review* is printed at Joe Christensen, Inc., 1540 Adams Street, Lincoln, Nebraska, and is entered as a periodical with postage paid at post offices in Lexington, Virginia, and Lincoln, Nebraska. POSTMASTER: Send address corrections to Washington and Lee Law Review, Room 408, Washington and Lee University School of Law, 1 Denny Circle, Lexington, Virginia 24450-2116. D. McNair Nichols, Jr. is the 2016–2017 Editor in Chief. The Law Review phone number is (540) 458-8566; the fax number is (540) 458-8488; and the e-mail address is lawreview@wlu.edu. The average number of copies printed of each issue during the preceding twelve months was 252.

**Subscription Information:** The subscription price for Volume 74 (four issues) of the *Washington and Lee Law Review* is \$75.00 (\$90.00 for subscriptions outside the United States). Please e-mail all subscription requests to the Washington and Lee Law Review at lawreview@wlu.edu. Subscriptions will be renewed automatically unless the Law Review receives notice of cancellation by November 30.

Volumes 1 through 73, may be purchased from:

William S. Hein & Co., Inc.  
1285 Main Street  
Buffalo, NY 14209-1987  
Call (800) 828-7571 to order

**Copies of Articles:** Except as otherwise provided, the author of each article in this issue and the *Washington and Lee Law Review* grant permission for copies to be made available for classroom use, provided that: (1) the copies are distributed at or below cost; (2) the author and the Law Review are identified on each copy; (3) a proper notice of copyright is affixed to each copy; and (4) the user notifies the Law Review that copies have been made. Articles are also available through Westlaw, LEXIS, and Hein Online.

**Disclaimer:** Materials published in the *Washington and Lee Law Review* state the views of the authors. The *Washington and Lee Law Review* takes no responsibility for any statement made here.

**World Wide Web Address:** The Washington and Lee Law Review maintains a website at <http://law.wlu.edu/lawreview>. The website provides general information regarding the Law Review and may be used to order subscriptions, notify the Law Review that copies have been made for classroom use, and contact individual editors and staffwriters.

---

## AN INVITATION TO AUTHORS

The Editorial Board of the Washington and Lee Law Review invites authors to submit articles and essays on areas of the law that are currently of interest to the legal profession. Student-written work is not accepted.

**About the Publication:** The *Washington and Lee Law Review* is published quarterly. The *Law Review* contains Articles, Essays, Lectures, and *Washington and Lee Law Review* Student Notes. The *Law Review* does not compensate authors for Articles, Essays, and Lectures formally selected for publication.

**Submission of Manuscripts:** Please submit manuscripts to Peter M. Szeremeta or Jessica A. Winn, Senior Articles Editors, Washington and Lee Law Review, Room 408, Washington and Lee University School of Law, 1 Denny Circle, Lexington, Virginia 24450-2116. Electronic submissions may be made *only* through our ExpressO webpage at [http://law.bepress.com/cgi/submit\\_lawreview.cgi?a=Washingtonallr](http://law.bepress.com/cgi/submit_lawreview.cgi?a=Washingtonallr). Alternatively, hard copy submissions are accepted. Please do not duplicate your submission by sending a hard copy as well as an electronic copy.

All manuscripts must be typed in Microsoft Word, not converted from any other software. The font of both the text and the footnotes should be 11 pt., Century Schoolbook, and double-spaced on 8½ x 11 inch paper. Footnotes should appear at the bottom of each page of text. Text and footnotes should conform to *The Bluebook: A Uniform System of Citation* (20th ed. 2015). Article submissions should be accompanied by an abstract of not more than 300 words.