

UNLV GAMING LAW JOURNAL

Volume 7, Number 2

Summer 2017

ARTICLES

THE SILVER STATE AND THE BLACK BOOK

Steven J. Brody, Esq.

CHEATER'S JUSTICE: JUDICIAL RECOURSE FOR VICTIMS OF GAMING FRAUD

Jordan T. Smith

EX ANTE UP: COMBATTING PROBLEM GAMBLING AND ITS HARMS IN JAPAN AHEAD OF THE LEGALIZATION OF CASINOS

Verin W. Valdez

COMMENTS

"SKINS" IN THE GAME: COUNTER-STRIKE, ESPORTS, AND THE SHADY WORLD OF ONLINE GAMBLING

Taylor Stanton Hardenstein

BACK TO THE NEGOTIATING TABLE: DESIGNING A TRIBAL-STATE COMPACT FOR ALABAMA

William H. Holley

NOTES

WHY DFS REQUIRES REGULATION REGARDLESS OF WHETHER IT IS SKILL BASED: AN OUTLINE OF THE GROWTH OF FANTASY SPORTS, THE SCANDALS, AND A RETURN TO GAMING IN THE UNITED STATES

Christopher L. Blandford

RECENT CHANGES IN TAX LAW CREATE OPPORTUNITIES TO BETTER SERVE INTERNATIONAL SLOT MACHINE PLAYERS

Ashley Anne Lacher

DO NOT PASS GO, DO NOT COLLECT \$231 MILLION DOLLARS: HOW *NCAA V. GOVERNOR OF NEW JERSEY* COULD NEGATIVELY AFFECT NEVADA'S MONOPOLY ON SPORTS BETTING

Kyle Wyant

The *UNLV Gaming Law Journal* is published by students of the William S. Boyd School of Law, University of Nevada, Las Vegas, in conjunction with the International Masters of Gaming Law and the Gaming Law Section of the State Bar of Nevada. Editorial and general offices are located at 4505 South Maryland Parkway, Box 451003, Las Vegas, Nevada, 89154.

Domestic subscription rate: \$40.00 per year. Foreign subscription rate: \$50.00 per year. Subscription requests may be sent to the *UNLV Gaming Law Journal* at the general office address listed above. Checks should be made payable to “Board of Regents.” Subscriptions will be renewed automatically unless notice of cancellation is received. Changes of address notices should include old and new addresses and zip codes.

The *UNLV Gaming Law Journal* welcomes unsolicited manuscripts on topics regarding gaming law. Footnotes should conform to the standards as set forth in *The Bluebook* (20th ed. 2015). Manuscripts can be submitted to the general office address listed above; manuscripts will not be returned unless accompanied by a self-addressed, postage-paid envelope. Manuscripts can also be submitted to the Journal’s Business Editor at business.editor@unlvgamblinglawjournal.org. Manuscripts accepted for publication must subsequently be submitted in Word format.

Unless otherwise noted, all articles are copyrighted © 2017 by the *UNLV Gaming Law Journal*.

ARTICLES

THE SILVER STATE AND THE BLACK BOOK	<i>Steven J. Brody, Esq.</i>	49
CHEATER’S JUSTICE: JUDICIAL RECOURSE FOR VICTIMS OF GAMING FRAUD	<i>Jordan T. Smith</i>	61
EX ANTE UP: COMBATTING PROBLEM GAMBLING AND ITS HARMS IN JAPAN AHEAD OF THE LEGALIZATION OF CASINOS	<i>Verin W. Valdez</i>	85

COMMENTS

“SKINS” IN THE GAME: COUNTER-STRIKE, ESPORTS, AND THE SHADY WORLD OF ONLINE GAMBLING	<i>Taylor Stanton Hardenstein</i>	117
BACK TO THE NEGOTIATING TABLE: DESIGNING A TRIBAL-STATE COMPACT FOR ALABAMA	<i>William H. Holley</i>	139

NOTES

WHY DFS REQUIRES REGULATION REGARDLESS OF WHETHER IT IS SKILL BASED: AN OUTLINE OF THE GROWTH OF FANTASY SPORTS, THE SCANDALS, AND A RETURN TO GAMING IN THE UNITED STATES	<i>Christopher L. Blandford</i>	161
RECENT CHANGES IN TAX LAW CREATE OPPORTUNITIES TO BETTER SERVE INTERNATIONAL SLOT MACHINE PLAYERS	<i>Ashley Anne Lacher</i>	199
DO NOT PASS GO, DO NOT COLLECT \$231 MILLION DOLLARS: HOW <i>NCAA v. GOVERNOR OF NEW JERSEY</i> COULD NEGATIVELY AFFECT NEVADA’S MONOPOLY ON SPORTS BETTING	<i>Kyle Wyant</i>	223

UNLV GAMING LAW JOURNAL

Published by the
William S. Boyd School of Law
University of Nevada, Las Vegas
in conjunction with the
International Masters of Gaming Law
and the
Gaming Law Section of the State Bar of Nevada

BOARD OF EDITORS

Editor-in-Chief

ADAM ELLIS

Managing Editor

SARAH WHITE

Business Editor

ASHLEY LACHER

Lead Articles Editor

CHRISTOPHER BLANDFORD

Special Projects Editor

KYLE WYANT

Articles Editors

JONATHAN CHUNG

VALERIE GRAY

BETTY FOLEY

ALYSSA PIRAINO

HILARY WILLIAMS

Notes Editors

ANN DUNN

MICHAEL VIETS

Senior Staff

PAMELA ANDA

YU MENG

ANGEL GETSOV

SETH STRICKLAND

JACOB JACKSON

TAYLOR VOLD

BRAD LIPMAN

Junior Staff

CHARLES ADJOVU

ERIC DUHON

VICTORIA ALLEN

KATHERINE FOX

ALANNA BONDY

SEBASTIAN GAJARDO

CHARLOTTE BUYS

JACLYN KLIEWER

KATIE CANNATA

VINCENT KWAN

KEZZIAH DALE

MICHAEL LINTON

Faculty Advisors

THOMAS MAIN

NGAI PINDELL

ANTHONY CABOT

William S. Boyd School of Law, UNLV

Faculty and Administration for 2016-2017

ADMINISTRATION

Daniel W. Hamilton, *Dean, Richard J. Morgan Professor of Law*
Linda Berger, *Associate Dean for Faculty Development and Research; Family Foundation Professor of Law*
Frank D. Durand, *Associate Dean for Student Affairs*
Rebecca Nathanson, *Associate Dean for Experiential Education; James E. Rogers Professor of Education and Law*
Jeanne F. Price, *Associate Dean for Academic Affairs, Professor of Law*
Christine Smith, *Associate Dean for Public Service, Compliance and Administration*
Layke Martin, *Assistant Dean for External Relations*

LAW FACULTY

Rachel J. Anderson, J.D., University of California, Berkeley, School of Law, *Professor of Law*
Ian C. Bartrum, LL.M., Yale Law School; J.D., Vermont Law School, *Professor of Law*
Peter Brandon Bayer, LL.M., Harvard Law School; J.D., New York University School of Law, *Professor of Law*
Linda L. Berger, J.D., Case Western Reserve University School of Law, *Associate Dean for Faculty Development and Research; Family Foundation Professor of Law*
Mary E. Berkheiser, J.D., University of Arizona College of Law, *Director, Juvenile Justice Clinic; Joyce Mack Professor of Law*
Bret C. Birdsong, J.D., University of California, Hastings College of the Law, *Professor of Law*
Christopher L. Blakesley, J.S.D., and LL.M., Columbia University School of Law; J.D., University of Utah College of Law, *The Cobeaga Law Firm Professor of Law*
Robert I. Correales, LL.M., Georgetown University Law Center; J.D., University of Kansas School of Law, *Professor of Law*
Linda Edwards, J.D., University of Tennessee College of Law, *E.L. Cord Foundation Professor of Law*
Eric Franklin, J.D., Cornell University Law School, *Director, Small Business & Nonprofit Legal Clinic; Associate Professor of Law*
Ruben J. Garcia, LL.M., University of Wisconsin Law School; J.D., University of California, Los Angeles, School of Law, *Professor of Law*
Sara Gordon, J.D., University of Arizona College of Law, *Associate Professor of Law*
Leslie C. Griffin, J.D., Stanford Law School, *William S. Boyd Professor of Law*
Daniel W. Hamilton, Ph.D., Harvard University; J.D., George Washington University, *Dean, Richard J. Morgan Professor of Law*
Lori D. Johnson, J.D., Northwestern University School of Law, *Associate Professor of Law*
Michael Kagan, J.D., University of Michigan Law School, *Director, Immigration Clinic; Professor of Law*
Kay P. Kindred, J.D., Columbia University School of Law, *Ralph Denton Professor of Law*
Mary LaFrance, J.D., Duke University School of Law, *IGT Professor of Intellectual Property Law*
Sylvia Lazos, J.D., University of Michigan Law School, *Justice Myron Leavitt Professor of Law*
Francine J. Lipman, LL.M., New York University School of Law; J.D., University of California, Davis, School of Law, *William S. Boyd Professor of Law*
Elizabeth L. MacDowell, J.D., University of California, Berkeley, School of Law, *Director, Family Justice Clinic; Professor of Law*
Thomas O. Main, J.D., Northeastern University School of Law, *William S. Boyd Professor of Law*
Thomas B. McAfee, J.D., University of Utah College of Law, *William S. Boyd Professor of Law*
Ann C. McGinley, J.D., University of Pennsylvania Law School, *William S. Boyd Professor of Law*
Rebecca Nathanson, Ph.D., University of California, Santa Barbara, *Associate Dean for Experiential Education; James E. Rogers Professor of Education and Law*
Lydia Nussbaum, J.D., University of Maryland Francis King Carey School of Law, *Director, Strasser Mediation Clinic; Associate Director, Saltman Center for Conflict Resolution; Associate Professor of Law*
Ngai Pindell, J.D., Harvard Law School, *Vice Provost for Faculty Affairs (UNLV); International Gaming Institute Professor of Law; Director, Gaming Programs*
Terrill Pollman, J.D., University of Arizona College of Law, *Professor of Law*
Jeanne F. Price, J.D., University of Texas School of Law, *Associate Dean for Academic Affairs, Professor of Law; Director, Wiener-Rogers Law Library*
Nancy B. Rapoport, J.D., Stanford Law School, *Special Counsel to the President (UNLV); Garman Turner Gordon Professor of Law; Affiliate Professor of Law and Ethics, Lee Business School*
Addie C. Rolnick, J.D., University of California, Los Angeles, School of Law, *Associate Professor of Law*

Keith A. Rowley, J.D., University of Texas School of Law, *William S. Boyd Professor of Law*
 Rebecca Scharf, J.D., Harvard Law School, *Associate Professor of Law*
 Elaine Shoben, J.D., University of California, Hastings College of the Law, *Judge Jack and Lulu Lehman Professor of Law*
 Jeffrey W. Stempel, J.D., Yale Law School, *Doris S. and Theodore B. Lee Professor of Law*
 Jean Sternlight, J.D., Harvard Law School, *Director, Saltman Center for Conflict Resolution; Michael and Sonja Saltman Professor of Law*
 David Tanenhaus, Ph.D., University of Chicago Law School, *James E. Rogers Professor of History and Law*
 Stacey Tovino, Ph.D., University of Texas Medical Branch; J.D., University of Houston Law Center, *Director, UNLV Health Law Program; Lehman Professor of Law*
 Anne R. Traum, J.D., University of California, Hastings College of the Law, *Director, Appellate Clinic; Professor of Law*
 Marketa Trimble, J.S.D. and J.S.M., Stanford Law School; JUDr., Ph.D., Law School of Charles University in Prague, *Samuel S. Lionel Professor of Intellectual Property Law*
 John V. White, J.D., Yale Law School, *NSHE Acting Chancellor; Professor of Law*

EMERITI FACULTY

Douglas Grant, J.D., University of Colorado School of Law, *Emeritus Professor of Law*
 Lynne Henderson, J.D., Stanford Law School, *Emerita Professor of Law*
 Richard J. Morgan, J.D., University of California, Los Angeles, School of Law, *Dean Emeritus*
 Jean M. Whitney, J.D., William Mitchell College of Law, *Emerita Professor of Law*

LIBRARY FACULTY

Emma Babler, J.D., University of Wisconsin Law School; M.L.I.S., University of Wisconsin-Madison, *Research Librarian and Assistant Professor*
 Jennifer Gross, J.D., Pace University School of Law; M.L.I.S., University of Washington, *Head of Collections and Associate Professor*
 Andrew Martineau, J.D., DePaul University College of Law; M.L.I.S., University of Washington, *Digital Services Librarian and Assistant Professor*
 David McClure, J.D., University of Nebraska College of Law; M.S.I.S., University of Texas, *Associate Director and Associate Professor*
 Laura Vlieg, J.D., William & Mary Law School; M.L.I.S. University of Arizona (2017), *Research Librarian and Assistant Professor*

VISITING LAW FACULTY

Kim Chanbonpin, LL.M., Georgetown University Law Center; J.D., University of Hawai‘i at Mānoa, William S. Richardson School of Law
 Keith Miller, LL.M., University of Michigan; J.D., University of Missouri-Kansas City
 Sonya Miller, LL.M., Villanova University; J.D., University of Nevada, Las Vegas, William S. Boyd School of Law
 Kristen Murray, J.D., Georgetown University Law Center

SENIOR FELLOWS

Nancy Brune, Ph.D., Yale University, Executive Director, Kenny Guinn Center for Policy Priorities, Nevada, *Senior Fellow*
 Honorable Jay S. Bybee, J.D., Brigham Young University Law School, *Senior Fellow in Constitutional Law*
 Patricia Mulroy, *Senior Fellow for Climate Adaptation and Environmental Policy (Brookings Institute) and Practitioner in Residence for the Saltman Center for Conflict Resolution*

SALTMAN SENIOR SCHOLARS

Hal Abramson, LL.M., Harvard Law School; J.D., Syracuse University College of Law
 Lisa Blomgren Amsler, J.D., University of Connecticut School of Law

ADJUNCT FACULTY

Cynthia Asher, J.D., Georgetown University Law Center; M.P.H., Johns Hopkins University
Jeanette Barrick, J.D., University of Nevada, Las Vegas, William S. Boyd School of Law
Stephen Bates, J.D., Harvard Law School
Honorable Richard Boulware, J.D., Columbia Law School
Honorable Jay S. Bybee, J.D., Brigham Young University Law School
Anthony Cabot, J.D., Arizona State University, Sandra Day O'Connor College of Law
Pete Christiansen, J.D., University of Wyoming College of Law
Honorable Valerie Cooke, J.D., Northwestern University School of Law
Honorable Jennifer Dorsey, J.D., Pepperdine University School of Law
David Doto, J.D., Villanova University School of Law
Maxim Gakh, J.D., The Ohio State University; M.P.H., Johns Hopkins University
John W. Garman, LL.M., McGeorge School of Law; J.D., University of LaVerne College of Law
Greg Gemignani, J.D., University of Wisconsin Law School
Stanley C. Hunterton, J.D., Syracuse University College of Law
Richard Jost, J.D., Syracuse University College of Law
John Lambrose, J.D., University of Idaho College of Law
Eleissa Lavelle, LL.M., Pepperdine University School of Law; J.D., University of Utah College of Law
Mark Lerner, J.D., American University Washington College of Law
Erin McMullen, J.D., California Western School of Law
Samuel McMullen, J.D., Georgetown University Law Center
Leslie Strasser Murdock, Ph.D., University of Nevada, Las Vegas; J.D., University of Nevada, Las Vegas, William S. Boyd School of Law
Honorable Mike K. Nakagawa, J.D., University of California, Davis, School of Law
Stanford B. Owen, J.D., Stanford Law School
Tom Pitaro, J.D., University of California, Los Angeles, School of Law
Joseph Regalia, J.D., University of Michigan Law School
Jennifer Roberts, J.D., University of Utah College of Law
Selina Shultz, LL.M., The Straus Institute at the Pepperdine University School of Law; J.D. University of Pittsburgh School of Law
David P. Schwartz, J.D., Brooklyn Law School
Howard Siegel, J.D., Syracuse University College of Law
Honorable Frank P. Sullivan, J.D., DePaul University College of Law
Honorable Jerome Tao, J.D., George Washington University
Rene Valladares, LL.M., University of Miami School of Law; J.D., University of Florida School of Law
Blaine Welsh, J.D., Brigham Young University Law School
Steve Wolfson, J.D., California Western School of Law
Homa Woodrum, J.D., University of Nevada, Las Vegas, William S. Boyd School of Law
Honorable Gregg Zive, J.D., University of Notre Dame Law School

GAMING LAW ADVISORY BOARD
2016-2017

CHAIRMAN — ANTHONY PEARL — *The Cosmopolitan of Las Vegas*
MIKE ALONSO — *Lewis Roca Rothgerber Christie*
PATRICIA BECKER — *Patricia Becker and Associates*
BO BERNHARD — *UNLV International Gaming Institute*
PETER BERNHARD — *Kaempfer Crowell*
MICHAEL BRUNET — *Palms Resort and Casino*
A.G. BURNETT — *Nevada Gaming Control Board*
ANTHONY CABOT — *Lewis Roca Rothgerber Christie*
JACOB COIN — *San Manuel Band of Mission Indians*
BILL CURRAN — *Ballard Spahr LLP*
LOU DORN — *SLS Hotels*
MARK DUNN — *Aristocrat Technologies*
KATIE FELLOWS — *Hard Rock Hotel & Casino Las Vegas*
GEOFF FREEMAN — *The American Gaming Association*
PHYLLIS GILLAND — *American Casino & Entertainment Properties*
GREGORY GIORDANO — *McDonald Carano Wilson LLP*
A.J. (BUD) HICKS — *McDonald Carano Wilson LLP*
TOM JINGOLI — *Konami Gaming*
TERRY JOHNSON — *Nevada Gaming Control Board*
JAN JONES BLACKHURST — *Caesars Entertainment*
JACQUI KRUM — *Wynn Resorts*
YVETTE LANDAU — *W.A. Richardson Builders, LLC*
BRIAN LARSON — *Boyd Gaming Corporation*
KATIE LEVER — *Baha Mar*
MARK LIPPARELLI — *University of Nevada Foundation and Gioco Ventures LLC*
JOHN MCMANUS — *MGM Resorts International*
KEVIN MULLALLY — *Gaming Labs International, LLC*
MAREN PARRY — *Ballard Spahr LLP*
MICHAEL PRESCOTT — *International Game Technology*
JENNIFER ROBERTS — *International Center for Gaming Regulation*
JEFFREY RODEFER
SCOTT SCHERER — *Holland & Hart*
FRANK SCHRECK — *Brownstein Hyatt Farber Schreck, LLP*
JEFFREY SILVER — *Dickinson Wright PLLV*
KIM SINATRA — *Wynn Resorts*
MIKE SLOAN — *Fertitta Entertainment*
KEITH SMITH — *Boyd Gaming Corporation*
RANDOLPH TOWNSEND — *Nevada Gaming Commission*
ELLEN WHITTEMORE — *Brownstein Hyatt Farber Schreck, LLP*
ANDRÉ WILSENACH — *International Center for Gaming Regulation*

UNLV GAMING LAW JOURNAL
EDITORIAL BOARD ADVISORY COMMITTEE
2016-2017

J. KELLY DUNCAN
Jones Walker LLP

GREGORY GIORDANO
McDonald Carano Wilson LLP

JEFF IFRAH
Ifrah Law

KEITH MILLER
Drake University

KERRY PATTERSON
Lewis Roca Rothgerber Christie LLP

DAN REASER
Fennemore Craig

JENNIFER ROBERTS
International Center for Gaming Regulation

ROBERT W. STOCKER II
Dickinson Wright PLLC

The *UNLV Gaming Law Journal* would like to recognize the following sponsors for their generous contributions to the *Journal*.

LEAD SPONSORS

The Konami logo consists of the word "KONAMI" in white, bold, uppercase letters, set against a red background that has a diagonal cut on the right side.

Lewis Roca
ROTHGERBER CHRISTIE

The logo for Lewis Roca Rothgerber Christie features a thick horizontal bar at the bottom, with the left portion in red and the right portion in black.

BENEFACTORS

SANTIAGO ASENSI



SUPPORTING SPONSOR

Anthony N. Cabot

PATRONS

Law Offices of Constantinos Couccoullis & Associates

Dan & Ann Reaser

Frank Cantania

Jane Zerbi

Robert Faiss

Sam Lionel