

# NEVADA LAW JOURNAL

Volume 16

Fall 2015

Number 1

## ARTICLES

- The First Amendment Case for Corporate Religious Rights  
John D. Moore ..... 1
- Fraud and Misrepresentation Claims Against Lawyers  
Douglas R. Richmond ..... 57
- Freedom of Expression and Morality-Based Impediments to the  
Enforcement of Intellectual Property Rights  
Marc J. Randazza ..... 107

## SYMPOSIUM: LEGAL EDUCATION IN A TIME OF CHANGE: CHALLENGES AND OPPORTUNITIES

- With Every Curse There Comes a Wish: Legal Education in a Time of  
Change  
Olympia Duhart and Ruben J. Garcia ..... 143
- Integrating Skills and Collaborating Across Law Schools: An Example  
from Immigration Law  
Jennifer Lee Koh and Anna Welch ..... 147
- Teaching Remedial Problem-Solving Skills to a Law School's  
Underperforming Students  
John F. Murphy ..... 173
- How Teaching About Therapeutic Jurisprudence Can Be a Tool of Social  
Justice, and Lead Law Students to Personally and Socially Rewarding  
Careers: Sexuality and Disability As a Case Example  
Michael L. Perlin and Alison J. Lynch ..... 209
- Tilting at Stratification: Against a Divide in Legal Education  
Rebecca Roiphe ..... 227
- The Call for Lawyers Committed to Social Justice to Champion  
Accessible Legal Services Through Innovative Legal Education  
George Critchlow, Brooks Holland, and Olympia Duhart ..... 251

## TRANSCRIPT: MAKING PEACE WITH YOUR ENEMY: NELSON MANDELA AND HIS CONTRIBUTIONS TO CONFLICT RESOLUTION

- Saltman Center for Conflict Resolution Tenth Anniversary Honors Nelson  
Mandela  
Jean R. Sternlight ..... 275

Making Peace with Your Enemy: Nelson Mandela and His Contributions to Conflict Resolution	
Jean R. Sternlight, Andrea Schneider, Carrie Menkel-Meadow, Robert Mnookin, Richard Goldstone, and Penelope Andrews .....	281

## **NOTES**

No Money, No Lawyer—No Children: The Right to Counsel for Indigent Defendants in Nevada Termination of Parental Rights Proceedings	
Erik J. Foley .....	313
Eliminating the No Number, No List Response: Keeping the CIA Within the Scope of the Law Amidst America’s Global War on Terror	
Joseph Meissner .....	345
Drones: Updating the Fourth Amendment and the Technological Trespass Doctrine	
S. Alex Spelman .....	373

## **NEVADA LEGISLATIVE SUMMARY**

2015 Legislative Recap: Important Bills from Nevada’s 78th Legislative Session	
Thomas W. Stewart and Jenn Odell .....	419

# NEVADA LAW JOURNAL

Published by the  
**William S. Boyd School of Law**  
University of Nevada, Las Vegas

---

## BOARD OF EDITORS

**Editor-in-Chief**  
HAYLEY E. MILLER

**Executive Managing Editor**  
ERIK J. FOLEY

**Managing Editors**  
CHELSEA LANCASTER-PENDEGRAFT  
AMBER LILIENTHAL

**Lead Articles Editor**  
GIL KAHN

**Symposium Editor**  
LEESA GOODWIN

**Articles Editors**  
STEPHANIE BEDKER  
STEPHEN DAVIS  
KATHERINE FRANK  
SYDNEY GAMBEE  
VINCENT GODINHO  
LINDSAY LIDDELL  
JENNIFER ODELL

**Notes Editors**  
JOSEPH MEISSNER  
ADAM WYNOTT

**Business Editor**  
STACY NEWMAN

**Nevada Law Editors**  
CHRISTIAN SPAULDIING  
THOMAS W. STEWART

## SENIOR STAFF

DAVEN CAMERON  
ALEEM DHALLA  
WALTER FICK

JESSICA GANDY  
JANINE LEE  
SCOTT LUNDY

JAYMES ORR  
PATRICK PHIPPEN  
ASHLEIGH WISE

## JUNIOR STAFF

HEATHER ARMANTROUT  
RONNI BOSKOVICH  
ADRIENNE BRANTLEY  
PATRICK CADDICK  
HEATHER CALIGUIRE  
MICHAEL COGGESHALL  
SHANNON DIAZ  
EMILY DYER  
CHELSEA FINNEGAN  
JESSIE FOLKESTAD  
PAUL GEORGE

BRANDONN GROSSMAN  
EMILY HAWS  
BAYLIE HELLMAN  
MICHAEL HUA  
FORREST JACKSON  
KRISTIAN KASKLA  
KORY KOERPERICH  
MARTA KURSHUMOVA  
COLTON LORETZ  
KATHERINE MAHER  
KRISTEN MATTEONI  
MACKENZIE WARREN

DANIEL ORMSBY  
ANDREA ORWOLL  
AUDRA POWELL  
CASSANDRA RAMEY  
LENA RIEKE  
ROBERT SCHMIDT  
DOUGLAS SMITH  
NANCY SNOW  
CHELSEA STACEY  
ADRIAN VIESCA  
BRITTANY WALKER

## FACULTY GOVERNING BOARD

PROFESSOR MICHAEL KAGAN      PROFESSOR THOMAS O. MAIN  
PROFESSOR KEITH A. ROWLEY

Editorial Office  
4505 S. Maryland Parkway, Las Vegas, NV 89154-1003  
TEL: 702.895.2435 • FAX: 702.895.2321

**William S. Boyd School of Law, UNLV**  
**Faculty and Administration for 2015–2016**

**ADMINISTRATION**

Daniel W. Hamilton, *Dean; Richard J. Morgan Professor of Law*  
Ngai Pindell, *Vice Dean; 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, *Interim Associate Dean for Experiential Education; James E. Rogers Professor of Education and 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, *Associate Professor of Law*  
Peter Brandon Bayer, LL.M., Harvard Law School; J.D., New York University School of Law, *Associate 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*  
Jennifer Carr, J.D., William S. Boyd School of Law, *Director, Academic Success Program*  
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, J.D., George Washington University, *Dean; Richard J. Morgan Professor of Law*  
Lori D. Johnson, J.D., Northwestern University School of Law, *Assistant Professor-in-Residence*  
Michael Kagan, J.D., University of Michigan Law School, *Co-Director, Immigration Clinic; Associate 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; Associate Professor of Law*  
Thomas O. Main, J.D., Northeastern University School of Law, *William S. Boyd Professor of Law*  
Fatma Marouf, J.D., Harvard Law School, *Co-Director, Immigration Clinic; Associate 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, *Interim 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 Dean; Professor of Law*

Terrill Pollman, J.D., University of Arizona College of Law, *Professor of Law*

Jeanne F. Price, M.L.S., University of Maryland; J.D., University of Texas School of Law, *Director, Wiener-Rogers Law Library; Professor of Law*

Nancy B. Rapoport, J.D., Stanford Law School, *Acting UNLV Executive Vice President & Provost; 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 Lionel Intellectual Property Professor of Law*

John V. White, J.D., Yale Law School, *Strategic Advisor to the UNLV President; Professor of Law*

#### **EMERITI FACULTY**

Richard L. Brown (in memoriam), J.D., Indiana University School of Law, *Emeritus Professor of Law*

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**

Jennifer Gross, J.D., Pace University School of Law; M.L.I.S., University of Washington, *Reference and Collection Management Librarian and Associate Professor*

Andrew Martineau, J.D., DePaul University College of Law, *Research Librarian and Assistant Professor*

David McClure, J.D., University of Nebraska College of Law, M.S.I.S., University of Texas, *Head of Research and Curriculum Services and Associate Professor*

Sean Saxon, M.L.I.S., Wayne State University, *Head of Cataloging and Innovative Systems and Associate Professor*

Chad Schatzle, LL.M., University of Florida, Fredric G. Levin College of Law; J.D., University of Miami School of Law, *Student Services Librarian and Associate Professor*

Matthew Wright, J.D., University of Utah; M.L.I.S., University of Washington, *Head of Collections and Associate Professor*

#### **VISITING LAW FACULTY**

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  
Tera Hodge, J.D., University of Nevada, Las Vegas, William S. Boyd School of Law  
Carrie Menkel Meadow, J.D., University of Pennsylvania Law School  
Keith Miller, LL.M., University of Michigan; J.D., University of Missouri-Kansas City  
Karen Sneddon, J.D., Tulane University Law School

#### **SENIOR FELLOWS**

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**

Anthony Cabot, J.D., Arizona State University, Sandra Day O'Connor College of Law  
Stephen Bates, J.D., Harvard Law School  
Honorable Jay S. Bybee, J.D., Brigham Young University Law School  
Sean Claggett, J.D., University of Nevada, Las Vegas, William S. Boyd School 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  
Seth Floyd, J.D., University of Nevada, Las Vegas, William S. Boyd School of Law  
John Forry, J.D., Harvard Law School  
Maxim Gakh, J.D., The Ohio State University; MPH, 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  
Dominic Gentile, J.D., DePaul University College of Law  
Sarah Harmon, J.D., University of San Diego Law School  
Stanley C. Hunterton, J.D., Syracuse University College of Law  
Richard Jost, J.D., Syracuse University College of Law  
Dennis Kennedy, J.D., University of Washington  
Randy Kiser, J.D., University of California, Berkeley  
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  
Leon Mead, J.D., Loyola Law School, Los Angeles  
Leslie Murdock, 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  
Honorable Phil Pro, J.D., Golden Gate University School of Law  
Joseph Regalia, J.D., University of Michigan Law School  
Jennifer Roberts, J.D., University of Utah College of Law  
Susan Roske, J.D., California Western School of Law  
David Sandino, J.D., Santa Clara University School of Law  
Selina Schultz, 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  
Kelly Stout, J.D., University of Nevada, Las Vegas, William S. Boyd School of Law

Cassie Stratford, J.D., University of Nevada, Las Vegas, William S. Boyd School of Law  
Honorable Frank P. Sullivan, J.D., DePaul University College of Law  
Cristen Thayer, J.D., University of Nevada, Las Vegas, William S. Boyd School of Law  
James Tucker, S.J.D. and LL.M., University of Pennsylvania Law School; J.D., University  
of Florida College of Law  
Rene Valladares, LL.M., University of Miami School of Law; J.D., University of Florida  
School of Law  
Blaine Welsh, J.D., J. Reuben Clark Law School  
Steve Wolfson, J.D., California Western School of Law  
Honorable Gregg Zive, J.D., University of Notre Dame Law School