

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@unlvgameinglawjournal.org. Manuscripts accepted for publication must subsequently be submitted in Word format.

Unless otherwise noted, all articles are copyrighted © 2019 by the *UNLV Gaming Law Journal*.

UNLV GAMING LAW JOURNAL

Volume 9

Spring 2019

Number 1

THE ROBERT D. FAISS LECTURE ON GAMING LAW AND POLICY

- ON THE SHOULDERS OF GIANTS: REFLECTIONS ON THE FOUNDATIONS
AND FUTURES OF THE STUDY OF GAMBLING
Bo J. Bernhard, Ph.D. 1

ORAL HISTORIES & EXPERT COMMENTARIES

- THE ORAL HISTORY OF JIMMY VACCARO WITH COMMENTARY BY
VINNY MAGLIULO
Legendary Oddsmaker 17
- EXPERT COMMENTARY ON SPORTS BETTING POST-PASPA FROM
BECKY HARRIS
*Former and First Female Chair of the Nevada Gaming
Control Board, 2018-2019* 29

COMMENTS

- THE PROFESSIONAL AND AMATEUR SPORTS PROTECTION ACT: HOW
ITS INVALIDATION WILL IMPACT INDIAN GAMING'S LEGAL AND
REGULATORY FRAMEWORK
Francisco Olea 35

ARTICLES

- SPORTS BETTING AND INDIAN GAMING: SHOULD TRIBAL CASINOS
GET IN THE GAME?
Kathryn R.L. Rand, J.D. and Steven Andrew Light, Ph.D. ... 55
- WHO WORE IT BETTER? FEDERAL V. STATE GOVERNMENT
REGULATION OF SPORTS BETTING
Jennifer Roberts, J.D. and Greg Gemignani, J.D. 77
- DUE PROCESS, PRIVATE NONDELEGATION DOCTRINE, AND THE
REGULATION OF SPORTS BETTING
Ryan M. Rodenberg, J.D., Ph.D. 99

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

ARIANA REED

Managing Editor

AMIT BEN-MOSHE

Lead Articles Editor

KIMBER LAUX

Articles Editors

THERESA GUERRA
STEPHEN MENDENHALL
STACY NORRIS

Business Editor

JACOB CRAWLEY

Special Projects Editor

DAVID STERN

Notes Editors

JULIO GARCIA

SAHAR NAWABZADA

Senior Staff

ASHLEY BURKETT
VILMA NUNEZ
JULIE SPERAW
TIFFANY YANG

NICOLE LUTEY
JENNIFER ASPEN SMITH
JONATHAN SVENSON
KATHLEEN GALLAGHER

Junior Staff

NICOLE BASTOS
JERRELL BERRIOS
OLIVIA CAMPBELL
SHAUN FERNANDEZ
COREY HALLQUIST

HUGO HERNANDEZ-DIAZ
ZANIAH JORDAN
GEORGE KOURY
RYAN McCONNELL

TRENTON ROSS
MIRIAM SHUMWAY
BREANNA SWITZLER
CASSIE WHALEN
BROOK WOODS

Faculty Advisor

PROFESSOR JOHN WHITE

Editorial Office

4505 Maryland Parkway, Las Vegas, Nevada 89154-1003 • Tel: 702.895.2370

William S. Boyd School of Law, UNLV Faculty and Administration for 2018-2019

ADMINISTRATION

Daniel W. Hamilton, *Dean, Richard J. Morgan Professor of Law*
Angie Doran, *Assistant Dean of Finance*
Frank D. Durand, *Associate Dean for Student Affairs*
Ruben J. Garcia, *Associate Dean for Faculty Development and Research; Professor of Law*
Sara Gordon, *Associate Dean for Academic Affairs; Associate Professor of Law*
Layke Martin, *Assistant Dean for External Relations*
Rebecca Nathanson, *Associate Dean for Experiential Legal Education; James E. Rogers Professor of Education and Law*
Christine Smith, *Associate Dean for Public Service, Compliance and Administration*

LAW FACULTY

Rachel J. Anderson, J.D., University of California, Berkeley, School of Law, *Professor of Law*
Chelsea M. Baldwin, J.D., Oklahoma City University School of Law, *Director, Academic Success Program, Assistant Professor in Residence*
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, *Associate Professor of Law*
Mary Beth Beazley, J.D. University of Notre Dame Law School, *Professor of Law*
Linda L. Berger, J.D., Case Western Reserve University School of Law, *Family Foundation Professor of Law*
Bret C. Birdsong, J.D., University of California, Hastings College of the Law, *Professor of Law*
Stewart Chang, J.D., Georgetown University Law Center, *Professor of Law*
Frank Rudy Cooper, J.D. Duke Law School, *Director, Program on Race, Gender, and Policing; William S. Boyd Professor of Law*
Robert I. Corrales, LL.M., Georgetown University Law Center; J.D., University of Kansas School of Law, *Professor of Law*
Benjamin Edwards, J.D., Columbia Law School, *Associate Professor of Law*
Linda Edwards, J.D., University of Tennessee College of Law, *E.L. Cord Foundation Professor of Law*
Ruben J. Garcia, LL.M., University of Wisconsin Law School; J.D., University of California, Los Angeles, School of Law, *Associate Dean for Faculty Development and Research; Professor of Law*
Sara Gordon, J.D., University of Arizona College of Law, *Associate Dean for Academic Affairs, Associate Professor of Law*
Leslie C. Griffin, M.A., M. Phil., Ph.D. Yale University, 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*
Eve Hanan, J.D., University of Michigan Law School, *Associate 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, *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*
Joanna Medrano, J.D., Brooklyn Law School, *Director of Externships; Assistant Professor in Residence*
Rebecca Nathanson, Ph.D., University of California, Santa Barbara, *Associate Dean for Experiential Legal Education; James E. Rogers Professor of Education and Law*
Lydia Nussbaum, J.D., University of Maryland Francis King Carey School of Law, *Director, Mediation Clinic; Associate Director, Saltman Center for Conflict Resolution; Associate Professor of Law*
David Orentlicher, J.D. Harvard Law School, M.D. Harvard Medical School, *Co-Director, UNLV Health Law Program; The Cobeaga Law Firm Professor of Law*
Ngai Pindell, J.D., Harvard Law School, *Vice Provost and Special Advisor in the Provost Office; International Gaming Institute Professor of Law; Director, Gaming Programs*
Terrill Pollman, J.D., University of Arizona College of Law, *Professor of Law*

Jeanne Frazier Price, J.D., University of Texas School of Law, *Professor of Law; Director, Wiener-Rogers Law Library*
Nancy B. Rapoport, J.D., Stanford Law School, *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, *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, *Founding 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, *Ralph Denton Professor of Law*

DISTINGUISHED FELLOW

Anthony Cabot, J.D., Arizona State University, Sandra Day O'Connor College of Law, *Distinguished Fellow in Gaming Law*
Senator Harry Reid, J.D., George Washington University Law School, *Distinguished Fellow in Law and Policy*
Governor Brian Sandoval, J.D. Ohio State University, Moritz College of Law, *Distinguished Fellow in Law and Leadership*

EMERITI FACULTY

Mary E. Berkheiser, J.D., University of Arizona College of Law, *Emerita 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, *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

Youngwoo Ban, J.D., Oklahoma City University School of Law; M.L.I.S. University of Arizona; LL.M. University of Nevada, Las Vegas William S. Boyd School of Law, *Research Librarian and Assistant Professor*
Elizabeth Manriquez, J.D., Chicago-Kent College of Law; M.L.I.S., University of Washington, *Research 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*
Lena Rieke, J.D., University of Nevada, Las Vegas William S. Boyd School of Law, *Law Library Fellow*

VISITING FACULTY

Szu-Ju Chang, J.D., Western Michigan University, Thomas M. Cooley Law School, *Director, Rosenblum Tax Clinic Program and Visiting Assistant Professor in Residence*
Daniel L. Barnett, J.D., University of the Pacific, McGeorge School of Law, *Director of Legal Writing and Professor of Law, University of Hawai'i*
Joan Howarth, J.D., University of Southern California, *Dean Emerita and Professor of Law, Michigan State University College of Law*
Keith Miller, LL.M., University of Michigan, J.D., University of Missouri-Kansas City, *Ellis & Nelle Levitt Distinguished Professor of Law, Drake Law School*
Mary Beth Moylan, J.D., Case Western Reserve University, *Associate Dean for Experiential Learning; Professor of Lawyering Skills; Director, Global Lawyering Skills Program, University of the Pacific, McGeorge School of Law*
Monte Smith, J.D., The Ohio State University, Moritz College of Law
Susan Wawrose, J.D. Northeastern University School of Law, *Professor of Lawyering Skills, University of Dayton School of Law*
Mark Yudof, LL.B. University of Pennsylvania, *President Emeritus, University of California and Professor of Law Emeritus, University of California, Berkeley*

SENIOR FELLOWS

Nancy Brune, Ph.D., Yale University, 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, M.A., University of Nevada, Las Vegas *Senior Fellow, Practitioner in Residence 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

Linda Ammons, J.D., Moritz College of Law, The Ohio State University
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
Patrick Chapin, J.D., Capital University School of Law
Pete Christiansen, J.D., University of Wyoming College of Law
Sean Claggett, J.D., University of Nevada, Las Vegas William S. Boyd School of Law
Margaret M. Crowley, J.D., University of California, Davis 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
Osvaldo Fumo, J.D., Whittier Law School
Maxim Gakh, J.D., The Ohio State University; M.P.H., Johns Hopkins University
Tom Gallagher, J.D., Harvard Law School
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
John Harney, J.D., University of Wisconsin Law School
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
Joanna Myers, 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
Richard A. Rawson, J.D., University of Nevada, Las Vegas William S. Boyd School of Law
Jennifer Roberts, J.D., University of Utah College of Law
David Sandino, J.D., Santa Clara University School of Law
David G. Schwartz, Ph.D. History, UCLA; B.A. and M.A., University of Pennsylvania
David P. Schwartz, J.D., Brooklyn Law School
Howard Siegel, J.D., Syracuse University, College 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
Rene Valladares, LL.M., University of Miami School of Law; J.D., University of Florida School of Law
Steve Wolfson, J.D., California Western School of Law
Kendelee Works, J.D., University of Nevada, Las Vegas William S. Boyd School of Law
Honorable Gregg Zive, J.D., University of Notre Dame Law School

RESEARCH FELLOW

Kaitlin McCormick-Huhn, Ph.D. Psychology and Women's Studies, Pennsylvania State University; M.S., Pennsylvania State University; B.A., Boston University; *Workplace Law Postdoctoral Research Fellow*

GAMING LAW ADVISORY BOARD
2018-2019

CHAIRMAN — ANTHONY PEARL — *The Cosmopolitan of Las Vegas*
MIKE ALONSO — *Alonso Law Limited*

PATRICIA BECKER — *Patricia Becker and Associates; Global Gaming Women*
BO BERNHARD — *UNLV International Gaming Institute*
PETER BERNHARD — *Kaempfer Crowell*
MICHAEL BRUNET — *Snow Covered Capital, LLC*
A.G. BURNETT — *McDonald Carano LLP*
ANTHONY CABOT — *William S. Boyd School of Law*

BECKY HARRIS — *International Center for Gaming Regulation, UNLV*
JACOB COIN — *San Manuel Band of Mission Indians*
BILL CURRAN — *Ballard Spahr LLP*
LOU DORN — *Monarch Casino & Resort, Inc.*
MARK DUNN — *Aristocrat Technologies*

KATIE FELLOWS — *Hard Rock Hotel & Casino Las Vegas*
PHYLLIS GILLAND — *Golden Entertainment*
GREGORY GIORDANO — *McDonald Carano LLP*
A.J. (BUD) HICKS — *McDonald Carano 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 — *The Drew Law Vegas*
MARK LIPPARELLI — *Galaxy Gaming*
JOHN McMANUS — *MGM Resorts International*

KEVIN MULLALLY — *Gaming Labs International, LLC*
MAREN PARRY — *Ballard Spahr LLP*

JENNIFER ROBERTS — *International Center for Gaming Regulation, UNLV*
JEFFREY RODEFER — *Holland & Hart*
SCOTT SCHERER — *Holland & Hart*

FRANK SCHRECK — *Brownstein Hyatt Farber Schreck*
JEFFREY SILVER — *Dickinson Wright PLLC*
KEITH SMITH — *Boyd Gaming Corporation*
ELLEN WHITTEMORE — *Wynn Resorts*

UNLV GAMING LAW JOURNAL
EDITORIAL BOARD ADVISORY COMMITTEE
2018-2019

J. KELLY DUNCAN
Jones Walker LLP

GREGORY GIORDANO
McDonald Carano LLP

JEFF IFRAH
Ifrah Law

KEITH MILLER
Drake University

KERRY PATTERSON
Procopio

DAN REASER
Fennemore Craig

JENNIFER ROBERTS
International Center for Gaming Regulation, UNLV

UNLV GAMING LAW JOURNAL
ALUMNI ADVISORY BOARD
2018-2019

ANDREW DUNNING
Articles Editor, 2014-2015

ADAM ELLIS
Editor-in-Chief, 2016-2017

KERRY E. KLEIMAN
Editor-in-Chief, 2014-2015

MICHAEL LINTON
Editor-in-Chief, 2017-2018

ERICA OKERBERG
Editor-in-Chief, 2012-2013

ELIJAH TREDUP
Lead Articles Editor, 2015-2016

ERIC WALTHER
Editor-in-Chief, 2013-2014

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

LEAD SPONSORS





Fox Rothschild LLP
ATTORNEYS AT LAW



GAMING COUNSEL
PROFESSIONAL CORPORATION

3329A Yonge St. Toronto, Canada M4N 2L9

GT **GreenbergTraurig**

SUPPORTING SPONSORS

BOYD
GAMING

DICKINSON WRIGHT PLLC

Lewis Roca
ROTHGERBER CHRISTIE

McDONALD  **CARANO**
YOUR NEVADA LAW FIRM SINCE 1949

BENEFACTORS

Anthony N. Cabot

**Brownstein Hyatt
Farber Schreck**


CROWE
&
DUNLEVY
ATTORNEYS AND
COUNSELORS AT LAW

Michael D. Lipton, Q.C. of Dickinson Wright

PLANZER LAW



**PENN NATIONAL
GAMING, INC.**

RMC
Regulatory Management Counselors, P.C.

INDIVIDUAL BENEFACTORS

Donna B. More & William Bogot of Fox Rothschild

**James Deutsch
of**



FENNEMORE CRAIG
ATTORNEYS

Alfredo G. Lazcano Samano
of
LAZCANO SÁMANO, S.C.

Sean McGuinness
of
BUTLER | SNOW

P. Gregory Giordano

Lawrence G. Walters
of



The *UNLV Gaming Law Journal* would like to give special recognition to the Executive Committee of the Gaming Law Section of the State Bar of Nevada for its unwavering support throughout the years.



Jeffrey R. Rodefer – *Chairman*
P. Gregory Giordano – *Vice Chairman*
A.C. Ansani
Jaime K. Black
Michael R. Brunet
Lou Dorn
Gregory R. Gemignani
Erica L. Okerberg
Maren Parry
Jennifer Roberts
Karl F. Rutledge
Scott Scherer