

# NEVADA LAW JOURNAL

---

Volume 18

Spring 2018

Number 3

---

## ARTICLES

- Private Enforcement in the Public Sphere—Towards a New Model of Residential Monitoring of Local Governments  
Omer Kimhi ..... 657
- Bit by Bit: Breaking Down the Ninth Circuit’s Frameworks for Jury Misconduct in the Digital Age  
Jesse Gessin ..... 709
- The Computer Made Me Do It: Is There a Future for False Claims Act Liability Against Electronic Health Record Vendors?  
Deborah R. Farringer ..... 735
- Making the Evil Less Necessary and the Necessary Less Evil: Towards a More Honest and Robust System of Plea Bargaining  
Steven P. Grossman ..... 769
- The Corporate Personhood Two-Step  
Carliss N. Chatman ..... 811
- Arrested Development: Rethinking Fourth Amendment Standards for Seizures and Uses of Force in Schools  
Alexis Karteron ..... 863
- Restraining Forced Marriage  
Lisa V. Martin ..... 919

## ESSAY

- Police, Heroes, and Child Trafficking: Who Cries When Her Attacker Wears Blue?  
Samuel Vincent Jones ..... 1007

## NOTES

- Beyond Bad Apples: Adopting Sentinel Event Reviews in Nevada’s Criminal Justice System  
Beatriz Aguirre ..... 1059
- The Early History of the Black Lives Matter Movement, and the Implications Thereof  
Garrett Chase ..... 1091

# NEVADA LAW JOURNAL

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

---

## BOARD OF EDITORS

**Editor-in-Chief**  
STEPHANIE J. GLANTZ

**Executive Managing Editor**  
ANDREW CLARK

**Executive Editors**  
ELISE CONLIN  
HAYLEY CUMMINGS  
KRISTOPHER KALKOWSKI

**Lead Articles Editor**  
ANNIE AVERY

**Symposium Editor**  
BRITTNI GRIFFITH

**Forum Editor**  
BRENT RESH

**Notes Editors**  
HUNTER DAVIDSON  
CHRISTOPHER GIDDENS

**Articles Editors**  
JULIA BARKER  
KARSON BRIGHT  
YOLANDA CARAPIA  
SCOTT CARDENAS  
MARGARITA ELIAS  
CHRISTOPHER KELLY  
WESLEY LEMAY JR.  
MARCO LUNA

**Nevada Law Editors**  
BEATRIZ AGUIRRE  
ALYSA GRIMES

**Business Editor**  
BRIANA MARTINEZ

## SENIOR STAFF

KRYSTINA BUTCHART  
SYDNEY CAMPAU  
PING CHANG

ANDREW HART  
ANGELA LEE  
MAEGUN MOOSO

WILLIAM NOBRIGA  
SKYLER SULLIVAN  
ALEXANDER VELTO

## JUNIOR STAFF

TAMARA CANNELLA  
WILL CARTER  
DAVID E. CHAVEZ  
JEFFREY CHRONISTER  
REBECCA CROOKER  
LUCY CROW  
RONALD EVANS  
JOSEPH FABBI  
JOSHUA GARRY  
CARMEN GILBERT  
HOMERO GONZALEZ  
PALOMA GUERRERO

MICHELLE HARNIK  
MARGARET HIGGINS  
MALIQ KENDRICKS  
STEVEN E. KISH III  
CASEY LEE  
LONDON LITTLEFIELD  
NATICE LOCKE  
ELLSIE LUCERO  
SHANEKA MALLOYD  
REX MARTINEZ  
MATTHEW MCKISSICK  
BRENDAN MCLEOD  
EMILY MEIBERT

JOCELYN MURPHY  
ALMA OROZCO  
EBETH ROCIO PALAFOX  
XHENI RISTANI  
CONNOR SAPHIRE  
SARA INEZ SCHREIBER  
SAMANTHA SCOFIELD  
ANNA SICHTING  
SHADY SIRSY  
BRIANNA STUTZ  
ALEXIS WENDL  
SHANNON ZAHM

## FACULTY GOVERNING BOARD

PROFESSOR MICHAEL KAGAN  
PROFESSOR THOMAS O. MAIN

PROFESSOR SARA GORDON  
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 2017-2018**

### **ADMINISTRATION**

Daniel W. Hamilton, *Dean, Richard J. Morgan Professor of Law*  
Frank D. Durand, *Associate Dean for Student Affairs*  
Ruben J. Garcia, *Associate Dean for Faculty Development and Research; 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*  
Jeanne Frazier Price, *Associate Dean for Academic Affairs; Professor of 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*  
Robert I. Correales, 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 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, Strasser 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 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 Frazier 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, *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*  
 Sonya Watson, LL.M. Villanova University School of Law, J.D., William S. Boyd School of Law, *Rosenblum Family Foundation Tax Clinic Program, Director*; *Assistance Professor in Residence*  
 John V. White, J.D., Yale Law School, *Ralph Denton Professor of Law*

### **DISTINGUISHED FELLOW**

Senator Harry Reid, J.D., George Washington University Law School, *Distinguished Fellow in Law and Policy*

### **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**

Jennifer Gross, J.D., Pace University School of Law; M.L.I.S., University of Washington, *Head of Collections and Associate 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*  
 Laura Vlieg, J.D., William & Mary Law School, *Student Services Librarian and Assistant Professor*

### **VISITING FACULTY**

Joshua Dressler, J.D., University of California, Los Angeles, *Professor Emeritus of Law, Moritz College of Law, The Ohio State University*  
 Steven S. Gensler, J.D., University of Illinois College of Law, *W. DeVier Pierson Professor of Law, President's Associated Presidential Professor, The University of Oklahoma College of Law*  
 Joan Howarth, J.D., University of Southern California, *Dean Emerita and Professor of Law, Michigan State University College of Law*  
 Allison Martin, J.D., University of Illinois College of Law, *Clinical Professor of Law, Indiana University Robert H. McKinney School 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*  
 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., 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  
Sean Claggett, J.D., 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  
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  
Stanley C. Hunteerton, 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  
Honorable Mike K. Nakagawa, J.D., University of California, Davis, School of Law  
Heidi Ojeda, J.D., William S. Boyd School of Law  
Stanford B. Owen, J.D., Stanford Law School  
Tom Pitaro, J.D., University of California, Los Angeles, School of Law  
Richard A. Rawson, J.D., William S. Boyd School of Law  
Jennifer Roberts, J.D., University of Utah College of Law  
David P. Schwartz, J.D., Brooklyn Law School  
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  
Steve Wolfson, J.D., California Western School of Law  
Honorable Gregg Zive, J.D., University of Notre Dame Law School