

2011

Front Matter HLR 40(2)

Follow this and additional works at: <http://scholarlycommons.law.hofstra.edu/hlr>



Part of the [Law Commons](#)

Recommended Citation

(2011) "Front Matter HLR 40(2)," *Hofstra Law Review*: Vol. 40: Iss. 2, Article 1.

Available at: <http://scholarlycommons.law.hofstra.edu/hlr/vol40/iss2/1>

This document is brought to you for free and open access by Scholarly Commons at Hofstra Law. It has been accepted for inclusion in Hofstra Law Review by an authorized administrator of Scholarly Commons at Hofstra Law. For more information, please contact lawcls@hofstra.edu.

HOFSTRA LAW REVIEW

Volume 40, No. 2
Winter 2011

HEMPSTEAD, NEW YORK 11549

The *Law Review* is pleased to consider unsolicited manuscripts for publication. All manuscripts should conform to *The Bluebook: A Uniform System of Citation*, 19th Edition. Manuscripts should be addressed to: Managing Editor of Articles, *Hofstra Law Review*, Hofstra University School of Law, 121 Hofstra University, Hempstead, New York 11549. Unsolicited manuscripts will not be returned except upon specific request at time of submission.

The *Hofstra Law Review* (ISSN 0091-4029) is published quarterly by the Hofstra Law Review Association. Hofstra University School of Law, 121 Hofstra University, Hempstead, NY 11549. Periodicals postage is paid at Hempstead, NY, and additional mailing offices. The current subscription rate is twenty-six dollars per volume. Postmaster: Send address changes to *Hofstra Law Review*, Hofstra University School of Law, 121 Hofstra University, Hempstead, New York 11549.

Individual issues are available from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, NY 14209-1987, (800) 828-7571. Orders may also be placed by fax, (716) 883-8100, or by e-mail: order@wshein.com. Subscription renewals will be automatic unless notice to the contrary is received. All communications should be addressed to Business Editor, *Hofstra Law Review*, Hofstra University School of Law, 121 Hofstra University, Hempstead, New York 11549.

© 2011 by the Hofstra Law Review Association.

HOFSTRA LAW REVIEW

Volume 40, No. 2

Winter 2011

Editor-in-Chief

ALLANA M. GRINSHTEYN

Managing Editors

ELIZABETH A. MURPHY

SIMONE S. HICKS

Senior

Articles Editor

HENRY S. SHAPIRO

Senior

Research Editor

BETHANY D. SIMMONS

Senior

Notes & Comments Editor

KATHERINE L. PORTER

Articles Editors

ELIZABETH J. ELIAS

LINDSAY S. FEUER

SARAH ALLISON L. WIESELTHIER

Research Editors

JAMES KOFFLER

ALEXANDER F. L. SAND

Notes & Comments Editors

HILARY F. CASPER

KATELYN M. JERCHAU

CHARLES P. MILESKI

Business Editor

DAVID E. MCCOY JR.

Senior Associate Editor

GABRIELLE D. BLUM

Alumni Affairs Editor

RICHARD A. PALADINO

Associate Editors

JAMES BOUKLAS

PATRICK A. DOLAN

CHRISTINA FLOUNDERS CONLON

SCOTT I. FORMAN

EMILY ROSE GRIMES

ROBIN M. HASHER

MICHELLE MARCELLUS

NICHOLAS O. PASLOW

DAVID S. SASSER

DAVID L. SCHWED

DANIELLE P. SMITH

ERNEST A. SPIVAK

MICHAEL TENENHAUS

ALEXANDER B. TURBIN

VLADIMIR I. YELIZAROV

ALEXANDER R. ZWILLINGER

Senior Staff

CHRISTOPHER M. BARBARELLO

GINAMARIE DEPAULA

JENELLE M. DEVITS

ANDREW L. EIGER

TIFFANI B. FIGUEROA

SCOTT L. FLEISCHER

KRISTIE M. FONTANA

DAVID GERARDI

ANA GETIASHVILI

JESSE A. GOLDBERG

FRIEDERIKE GÖRGENS

BRIAN R. D. HAMM

CRAIG J. HERBST

STEVEN HOLLANDER

ADAM D. KAHN

CHRISTOPHER J. KOCHMAN

MICHAEL D. KOHANIM

EVGENY KRASNOV

CHRISTOPHER G. LEO

SEAN L. LEVINE

STEPHEN R. MACHO

STEPHEN P. MORGAN

JONATHAN J. NASCA

PHILIP P. NASH

KRISTIN E. PEZZUTI

STEPHEN D. PIRAINO

GORDON A. QUEENAN

JAMIE A. ROSEN

RAKESH ROY

SAMUEL J. SCROGGINS

REBECCA R. SKLAR

JOSEPH P. SULZBACH

RICO TAGLIAFERRI

CYNTHIA M. THOMAS

STEVIE V. TRAN

MAAYAN Y. VODOVIS

LINDSEY A. ZULLO

HOFSTRA UNIVERSITY SCHOOL OF LAW

ADMINISTRATIVE OFFICERS

Nora V. Demleitner, B.A., J.D., LL.M., *Dean and Professor of Law*
Jennifer Gundlach, B.A., J.D., *Senior Associate Dean for Academic Affairs and Clinical Professor of Law*
Yishai Boyarin, B.A., J.D., LL.M., *Associate Dean for Intellectual Life and Assistant Clinical Professor of Law*
Norman I. Silber, B.A., M.A., Ph.D., J.D., *Associate Dean for Intellectual Life and Professor of Law*
Tobie-Lynn Accardi, B.F.A., *Creative Director*
Toni L. Aiello, B.A., J.D., M.S.L.S., *Reference Librarian*
Adonza S. Anderson, *Associate Director of Enrollment Management and Diversity Initiatives*
Gerard Anderson, B.A., M.A., *Director of Financial Aid*
Yvonne V. Atkinson, B.S., *Office Manager/Paralegal, Law School Clinical Program*
Amy E. Bedell, *Director of Public Sector Career Planning*
Andrew E. Berman, *Marketing Manager*
Lisa Berman, B.A., *Assistant Dean for External Relations*
Peter S. Casalino, *Prospect Research and Database Manager*
John Chalmers, B.A., *Assistant Dean for Enrollment Management*
Chaio Peter Chao, B.A., M.L.S., M.A., *Catalog Librarian*
David A. DeCicco, B.S., M.P.A., *Assistant Dean for Communications*
Shane Dizon, B.A., J.D., *Assistant Director of Academic Support & Visiting Assistant Professor of Law*
Jeffrey A. Dodge, B.A., J.D., *Assistant Dean for Global Initiatives & Multicultural Affairs*
Dimitrios M. Doussi, B.A., *Assistant Registrar*
Michael J. Ende, B.A., J.D., *Assistant Dean for Career Services*
Scott C. Filipkowski, B.B.A., *Help Desk Manager*
Andrew Frey, B.B.A., M.B.A., *Operations Coordinator*
Mary Godfrey-Rickards, B.A., J.D., M.L.S., *Reference/Access Services Librarian*
Dominick J. Grillo, B.A., M.S.L.S., J.D., *Assistant Director for Technology and Collection Services*
Shikha Gupta, B.A., J.D., M.S.L.S., *Reference Librarian*
Terry Harrington, *Operations Coordinator — Personnel*
Vernadette Horne, B.A., J.D., *Director of Career Services*
Aisha L. Joseph, B.A., J.D., *Director of Career and Professional Development*
Brian T. Kaspar, B.S., M.B.A., *Registrar*
Patricia A. Kasting, J.D., M.L.S., *Reference Librarian*
Rou Chia P. Lin, B.A., M.L.S., *Acquisitions Librarian*
Christine Lunsford, B.A., *Director of Development*
Anthony "A.J." Marinelli, B.B.A., *Assistant Director of Information Systems*
Kristen McMahon, B.A., *Director of Public Relations*
Shawn D. McShay, B.S., M.B.A., *Senior Director of Enrollment Management*
Lisa Monticciolo, B.A., J.D., *Assistant Dean of Student Affairs*
Gary Moore, B.S., *Assistant Dean for Law School Information Systems*
Eric Post, *Annual Fund Manager*
Laura Pronesti, *Executive Assistant to the Dean*
Victoria Roberts, B.A., J.D., *Associate Dean and Dean for Professional Development*
Mary T. Ruggilo, B.A., J.D., *Assistant Dean for Finance*
Laura T. Rup, B.A., *Assistant Director of Enrollment Management*
Linda P. Russo, M.L.S., B.A., *Assistant Director for Technical Services*
Franca Sachs, B.A., J.D., *Executive Director of Fellowship Programs and Director of CLE*
Courtney Selby, B.A., J.D., M.S.L.I.S., *Associate Dean for Information Systems, Director of the Law Library & Associate Professor of Law*
Kenneth J. Selvester, *Associate Director for Publications*
Kevin Shelton, B.A., M.A., J.D., M.S.L.I.S., *Reference and Government Documents Librarian*
Lisa A. Spar, B.A., M.S., J.D., *Assistant Director for Reference and Instructional Services*
Jodie D. Sperico, *Director of Alumni Relations*
Akshay D. Tripathi, B.E., M.B.A., P.M.P., *Director of Law School Information Systems*
Michael G. Wagner, B.S., *Webmaster*

FACULTY

Jamie Abrams, B.A., J.D., LL.M., *Visiting Assistant Professor of Legal Writing*
Robert Abrams, B.A., J.D., *Special Professor of Law*
Burton C. Agata, A.B., J.D., LL.M., *Professor Emeritus of Law*
Erica Aisner, *Special Professor of Law*
Miriam Albert, B.A., J.D., M.B.A., LL.M., *Professor of Skills*
Robert Archer, *Special Professor of Law*
The Honorable Leonard B. Austin, B.A., J.D., *Special Professor of Law*
Kenneth Balkan, *Special Professor of Law*
Barbara S. Barron, B.A., M.A., J.D., *Professor of Skills*
Kathleen Beckett, *Special Professor of Law*
Steven C. Bennett, B.A., J.D., *Special Professor of Law*
Robert Biancavilla, B.A., J.D., M.P.S., A.S., *Special Professor of Law*
The Honorable Joseph Bianco, *Special Professor of Law*
Richard Bock, B.A., J.D., *Special Professor of Law*

Yishai Boyarin, B.A., J.D., LL.M., *Assistant Clinical Professor of Law*
 Lawrence Jay Braunstein, B.A., J.D., *Special Professor of Law*
 Susan Britt, *Special Professor of Law*
 Alafair S. Burke, B.A., J.D., *Professor of Law*
 Nancy Burner, *Special Professor of Law*
 Robert A. Baruch Bush, B.A., J.D., *Harry H. Rains Distinguished Professor of Arbitration and Alternative Dispute Settlement Law*
 Juli Campagna, B.A., M.A., J.D., LL.M., *Assistant Professor of Legal Writing*
 I. Bennett Capers, B.A., J.D., *Professor of Law*
 Andrez Carberry, B.A., M.A., J.D., *Special Professor of Law*
 John Carlson, *Special Professor of Law*
 Laurie Cascino, B.A., J.D., *Visiting Assistant Professor of Legal Writing*
 Ralph H. Cathcart, *Special Professor of Law*
 Robin Charlow, A.B., J.D., *Professor of Law*
 David Chideckel, *Special Professor of Law*
 Bruce Ching, B.A., M.A., J.D., *Visiting Assistant Professor of Legal Writing*
 J. Scott Colesanti, B.A., J.D., LL.M., *Assistant Professor of Legal Writing*
 Ronald J. Colombo, B.S., J.D., *Associate Professor of Law*
 Craig Cooley, B.S., J.D., M.S., *Special Professor of Law*
 R. Bruce Cozzens, *Special Professor of Law*
 Eduardo Cukier, *Special Professor of Law*
 The Honorable Edmund Dane, *Special Professor of Law*
 Matthew Delforte, *Special Professor of Law*
 Nora V. Demleitner, B.A., J.D., LL.M., *Dean and Professor of Law*
 J. Herbie DiFonzo, B.S., J.D., M.A., Ph.D., *Professor of Law*
 Janet L. Dolgin, B.A., M.A., Ph.D., J.D., *Jack and Freda Dicker Distinguished Professor of Health Care Law and Director of the Institute for Health Law & Policy*
 Tracy Dunbrook, B.A., J.D., LL.M., *Visiting Assistant Professor of Law*
 Jack Evans, *Special Professor of Law*
 Akilah N. Folami, B.A., J.D., *Associate Professor of Law*
 Susan Fortney, B.A., J.D., LL.M., J.S.D., *Howard Lichtenstein Distinguished Professor of Legal Ethics and Director of the Institute for the Study of Legal Ethics*
 Eric M. Freedman, B.A., J.D., M.A., Maurice A. Deane Distinguished Professor of Constitutional Law
 Monroe H. Freedman, A.B., LL.B., LL.M., *Professor of Law*
 Leon Friedman, A.B., LL.B., *Joseph Kushner Distinguished Professor of Civil Liberties Law*
 Brian Frye, B.A., M.F.A., J.D., *Visiting Assistant Professor of Law*
 Linda Galler, B.A., J.D., LL.M., *Professor of Law*
 Mitchell Gans, B.B.A., J.D., *Professor of Law*
 The Honorable Kenneth L. Gartner, B.A., J.D., *Special Professor of Law*
 Sharema Gadson-Shaw, *Special Professor of Law*
 Dolores Gebhardt, B.S., J.D., *Special Professor of Law*
 James F. Gesualdi, B.A., M.A., J.D., *Special Professor of Law*
 George Giuliani, B.A., M.S., M.A., J.D., Psy.D., *Special Professor of Law*
 Elizabeth M. Glazer, B.A., M.A., J.D., *Associate Professor of Law and Co-Director for the LGBT Fellowship*
 Barry Goldberg, *Special Professor of Law*
 Daniel J. H. Greenwood, A.B., J.D., *Professor of Law*
 John DeWitt Gregory, B.A., J.D., *Sidney and Walter Siben Distinguished Professor of Family Law*
 Joanna L. Grossman, B.A., J.D., *Professor of Law and Hofstra Research Fellow*
 Frank Gulino, B.A., J.D., *Associate Professor of Legal Writing, Director of Student Advocacy Programs and Faculty Advisor to Moot Court Board*
 Jennifer Gundlach, B.A., J.D., *Senior Associate Dean for Academic Affairs and Clinical Professor of Law*
 Marc L. Hamroff, *Special Professor of Law*
 Robert Harper, *Special Professor of Law*
 Grant M. Hayden, B.A., J.D., M.A., *Professor of Law and John DeWitt Gregory Research Scholar*
 Carol Cassaza Herman, B.A., J.D., *Visiting Practitioner-in-Residence in Environmental Law and Special Professor of Law*
 James Edward Hickey, Jr., B.S., J.D., Ph.D., *Professor of Law*
 The Honorable Richard Horowitz, *Special Professor of Law*
 Mariana Hogan, *Special Professor of Law*
 Bernard E. Jacob, B.A., J.D., Ph.D., *Distinguished Professor Emeritus of Law*
 Michael D. Jaffe, B.A., J.D., *Special Professor of Law*
 Alan Jakimo, B.A., M.B.A., J.D., *Special Professor of Law*
 Susan H. Joffe, B.A., M.A., J.D., *Associate Professor of Legal Writing*
 Gary Kalbaugh, BCL, LL.M., *Special Professor of Law*
 Elena Karabatos, *Special Professor of Law*
 David A. Kaufman, B.A., J.D., *Special Professor of Law*
 Lawrence Kessler, B.A., J.D., *Director of the Trial Techniques Program and Richard J. Cardali Distinguished Professor of Trial Advocacy*
 Avi Z. Kestenbaum, B.A., J.D., LL.M., *Special Professor of Law*
 Fred Klein, B.A., J.D., *Special Professor of Law*
 Spencer Klein, *Special Professor of Law*
 The Honorable Gary F. Knobel, B.A., J.D., LL.M., *Special Professor of Law*
 Stefan Krieger, B.A., J.D., *Professor of Law, Director of Center for Applied Legal Reasoning and Director Emeritus of Hofstra Clinical Programs*
 Julian Ku, B.A., J.D., *Professor of Law*

Katrina Fischer Kuh, B.A., J.D., *Associate Professor of Law*
Eric Lane, B.A., M.A., J.D., LL.M., *Eric J. Schmertz Distinguished Professor of Public Law and Public Service*
Ivy Leibowitz, B.A., M.A., P.D., J.D., *Special Professor of Law*
Richard G. Leland, B.S., J.D., *Special Professor of Law*
Theo Liebmann, B.A., J.D., *Director of Clinical Programs and Clinical Professor of Law*
Barry Lites, *Special Professor of Law*
Bryan Lonegan, *Special Professor of Law*
Kim Luckey, *Special Professor of Law*
Barbara A. Lukeman, B.A., J.D., *Special Professor of Law*
Andrew H. Lupu, B.A., J.D., *Special Professor of Law*
Malachy T. Mahon, B.A., J.D., *Founding Dean Emeritus*
Lewis R. Mandel, A.B., J.D., LL.M., *Special Professor of Law*
Serge Martinez, B.A., J.D., *Clinical Professor of Law*
The Honorable Edward W. McCarty III, B.S., J.D., *Special Professor of Law*
Kevin McElroy, B.A., J.D., *Visiting Assistant Professor of Legal Writing*
Christopher T. McGrath, *Special Professor of Law*
Janis Meyer, *Special Professor of Law*
Richard K. Neumann, Jr., B.A., Dipl., J.D., LL.M., *Professor of Law*
Andrew Oringer, A.B., M.B.A., J.D., *Special Professor of Law*
Ashira Ostrow, B.A., J.D., *Associate Professor of Law*
Mary Beth Ott, B.S., J.D., *Special Professor of Law*
Mark Padin, B.A., M.S., J.D., *Associate Professor of Academic Support*
Peter Parcher, *Special Professor of Law*
Curtis Pew, B.A., M.P.P.A., J.D., *Visiting Clinical Professor of Law*
John Pieper, B.A., J.D., LL.M., *Special Professor of Law*
Troy Pieper, *Special Professor of Law*
Jack M. Platt, B.A., J.D., *Special Professor of Law*
Neal R. Platt, B.S., J.D., LL.M., *Special Professor of Law*
Rona L. Platt, B.S., J.D., *Special Professor of Law*
Seth A. Presser, J.D., *Special Professor of Law*
Andrew Reiss, *Special Professor of Law*
Alan N. Resnick, B.S., J.D., LL.M., *Benjamin Weintraub Distinguished Professor of Bankruptcy Law*
The Honorable Edwina Richardson-Mendelson, *Special Professor of Law*
Anibal Rosario Lebron, J.D., LL.M., *Visiting Assistant Professor of Legal Writing*
Jared Rosenblatt, *Special Professor of Law*
Paul Rubell, B.A., J.D., *Special Professor of Law*
Ben B. Rubinowitz, B.A., J.D., *Special Professor of Law*
Michael Ryan, *Special Professor of Law*
James Sample, B.A., J.D., *Associate Professor of Law*
Louis A. Scarcella, B.S., J.D., *Special Professor of Law*
Andrew Schepard, B.A., M.A., J.D., *Director of the Center for Children, Families and the Law and Professor of Law*
Robert Schwenkel, *Special Professor of Law*
Courtney Selby, B.A., J.D., M.L.I.S., *Associate Dean for Information Services, Director of the Law Library & Associate Professor of Law*
Rita Sethi, *Special Professor of Law*
Grant Shehigian, *Professor of Law*
Norman I. Silber, B.A., M.A., Ph.D., J.D., *Associate Dean for Intellectual Life and Professor of Law*
Jeffrey Silberfeld, B.A., J.D., *Visiting Assistant Professor of Law*
Ronald H. Silverman, B.A., J.D., *Peter S. Kalikow Distinguished Professor of Real Estate Law*
Roy D. Simon, Jr., B.A., J.D., *Distinguished Professor Emeritus of Law*
William M. Skehan, B.A., M.B.A., J.D., *Special Professor of Law*
Judd Sneider, B.A., J.D., *Visiting Associate Professor of Law*
Lisa Spar, B.A., J.D., M.S., *Special Professor of Law*
Barbara Stark, B.A., J.D., LL.M., *Professor of Law and Hofstra Research Fellow*
Amy R. Stein, B.A., J.D., *Professor of Legal Writing, Assistant Dean for Adjunct Instruction, and Coordinator of the Legal Writing Program*
Michael Steinberg, *Special Professor of Law*
Jacob L. Stevens, B.A., J.D., *Visiting Assistant Clinical Professor of Law*
Daniel M. Sullivan, B.S., J.D., *Special Professor of Law*
Michael Vecchione, *Special Professor of Law*
Rose Cuisson Villazor, B.A., J.D., LL.M., *Associate Professor of Law*
Vern R. Walker, B.A., M.A., Ph.D., J.D., *Professor of Law and Director of the Research Laboratory for Law, Logic and Technology*
Bennett J. Wasserman, B.A., M.A., J.D., *Special Professor of Law*
Eric G. Waxman III, *Special Professor of Law*
Phillip Weinberg, *Special Professor of Law*
Stephen Weiner, B.A., J.D., *Special Professor of Law*
Joel Weintraub, A.B., M.D., J.D., *Special Professor of Law*
Edward Wipper, *Special Professor of Law*
Carolyn Reinach Wolf, B.A., M.B.A., M.S., J.D., *Special Professor of Law*
Lauris Wren, B.A., J.D., *Clinical Professor of Law and Attorney-in-Charge of the Political Asylum Clinic*
Patrick Young, *Special Professor of Law*
The Honorable Hope Zimmerman, *Special Professor of Law*

HOFSTRA LAW REVIEW

Volume 40, No. 2

Winter 2011

CONTENTS

INTRODUCTION *Judge John J. Farley, III* 347

IDEAS

CLIENT-CENTERED LAWYERING—

WHAT IT ISN'T *Monroe H. Freedman* 349

WHICH “CLIENT-CENTERED COUNSELORS”?:

A REPLY TO PROFESSOR FREEDMAN *Robert F. Cochran, Jr.* 355

ARTICLES

WHISTLEBLOWERS CASH IN,

UNWARY CORPORATIONS PAY *John Ashcroft* 367
Catherine Hanaway
Claudia L. Oñate Greim

WALL STREET AS YOSSARIAN:

THE OTHER EFFECTS OF THE RAJARATNAM

INSIDER TRADING CONVICTION *J. Scott Colesanti* 411

DOMINANCE, INNOVATION, AND EFFICIENCY:

MODIFYING ANTITRUST AND INTELLECTUAL PROPERTY

DOCTRINES TO FURTHER WELFARE..... *Daniel J. Gifford* 437

NOTES

WHO IS POKING AROUND YOUR FACEBOOK PROFILE?:

THE NEED TO REFORM THE STORED COMMUNICATIONS ACT

TO REFLECT A LACK OF PRIVACY ON

SOCIAL NETWORKING WEBSITES *Lindsay S. Feuer* 473

RESOLVING THE MODERN DAY ESAU PROBLEM

AMONGST STRUCTURED SETTLEMENT

RECIPIENTS *Michelle M. Marcellus* 517

THOSE LOST BUT NOT FORGOTTEN:

APPLICANTS WITH SEVERE DISABILITIES, TITLE I
OF THE ADA, AND RETAIL CORPORATIONS *Charles P. Mileski* 553

RETAIN THE BRAINS: USING A CONDITIONAL

RESIDENCE REQUIREMENT TO KEEP THE BEST
AND BRIGHTEST FOREIGN STUDENTS IN THE
UNITED STATES *Katherine L. Porter* 593