3-1-2014

Contents

First Amendment Law Review

Follow this and additional works at: http://scholarship.law.unc.edu/falr
Part of the First Amendment Commons

Recommended Citation
Available at: http://scholarship.law.unc.edu/falr/vol12/iss3/1

This Front Matter is brought to you for free and open access by Carolina Law Scholarship Repository. It has been accepted for inclusion in First Amendment Law Review by an authorized editor of Carolina Law Scholarship Repository. For more information, please contact law_repository@unc.edu.
ARTICLE

AN UPDATE TO STRIKING A BALANCE: FREEDOM OF THE PRESS VERSUS CHILDREN'S PRIVACY INTERESTS IN JUVENILE DEPENDENCY PROCEEDINGS......William W. Patton & Kelly Crecco 575

NOTES

OFF-LABEL PROMOTION AFTER UNITED STATES v. CARONIA ................................................................. Brian M. Blood 593

UNANSWERED PRAYERS: LUND V. ROWAN COUNTY AND THE PERMISSIVENESS OF SECTARIAN PRAYER IN MUNICIPALITIES.......................................................... Kristopher L. Caudle 625

COOKSEY V. FUTRELL: THE FOURTH CIRCUIT ILLUSTRATES HOW INFORMAL COMMUNICATIONS BY STATE AUTHORITIES AND REGULATORS CAN BE USED TO ESTABLISH ARTICLE III STANDING AND RIPENESS IN FIRST AMENDMENT PROCEEDINGS .................................................. Neal A. Inman 667

POLITICAL POWER, A RELIGIOUS AGENDA, AND THE FAILINGS OF THE ENDORSEMENT TEST: HASIDIC EDUCATIONAL SEPARATISM AND THE EAST RAMAPO SCHOOL BOARD ......................... Kathleen Lockwood 697

PUT YOUR MOUTH WHERE YOUR MONEY IS: HOW POLITICAL ORGANIZATIONS PROFITEER OFF THE FIRST AMENDMENT AND WHAT CONGRESS SHOULD DO ABOUT IT ........ Philip A. Thompson 725
THE UNIVERSITY OF NORTH CAROLINA SCHOOL OF LAW

Administration

THOMAS W. ROSS, B.S., J.D., President of the University of North Carolina
JOHN CHARLES BOGER, A.B., M.Div., J.D., Dean and Wade Edwards Distinguished Professor of Law
ROBERT P. MOSTELLER, B.A., M.A., J.D., Associate Dean for Academic Affairs and J. Dickson Phillips Distinguished Professor of Law
RICHARD E. MYERS II, B.A., M.A., J.D., Associate Dean for Student Affairs and George R. Ward Associate Professor of Law
JOAN H. KRAUSE, B.A., J.D., Associate Dean for Faculty Development and Dan K. Moore Distinguished Professor of Law; Professor of Social Medicine in the School of Medicine; Adjunct Professor in the Gillings School of Global Public Health
CRAIG T. SMITH, B.A., LL.M., Assistant Dean for Legal Writing and Academic Success and Clinical Professor of Law
PATRICIA HENNESSEY, B.S., Associate Dean for Finance and Information Technology
KRISTINE JENSEN, B.A., Associate Dean for Advancement
MICHAEL J. STATES, B.A., J.D., Assistant Dean for Admissions
SYLVIA K. NOVINSKY, B.S., J.D., Assistant Dean for Public Service Programs
JOHN B. KASPRZAK, B.A., M.A.T., J.D., Assistant Dean for Student Services
DOUGLAS B. EDMUNDS, B.A., M.S., Assistant Dean for Information Technology
CATHARINE PIERCE, B.A., M.P.A., Assistant Dean for Policy and Special Assistant to the Dean
BRIAN D. LEWIS, B.G.S., M.A., Assistant Dean for Career Services
ALLISON L. REID, B.A., M.A., Assistant Dean for Communications
T. BRANDON WRIGHT, B.S., Assistant Dean for Advancement

Faculty

DAVID S. ARDIA, B.S., M.S., J.D., LL.M., Assistant Professor Law and Journalism and Mass Communication
VOLKER BEHR, LL.M., Ph.D., HABILITATION, Visiting Professor of Law
TAMAR R. BIRCKHEAD, B.A., J.D., Associate Professor of Law
KIMBERLY C. BISHOP, B.A., J.D., Clinical Assistant Professor of Law
JOHN CHARLES BOGER, A.B., M.Div., J.D., Dean and Wade Edwards Distinguished Professor of Law
LESSA LAMKIN BROOME, B.S., J.D., Wells Fargo Professor of Banking Law and Director of the Center for Banking and Finance
ALFRED L. BROPHY, A.B., J.D., A.M., Ph.D., Judge John J. Parker Distinguished Professor of Law
CAROLINE NICHOLSON BROWN, B.A., M.A., J.D., Professor of Law
PATRICIA L. BRYAN, B.A., J.D., LL.M., Martha Brandis Professor of Law
BERNARD A. BURK, B.A., J.D., Assistant Professor of Law
SUZANNE M. CHESTER, B.A., J.D., Ph.D., Clinical Assistant Professor of Law
ALEXA Z. CHEW, A.B., J.D., Clinical Assistant Professor of Law
ANDREW CHIN, B.S., Ph.D., J.D., Associate Professor of Law
LAURA COLLINS BRITTON, B.A., J.D., Clinical Assistant Professor of Law
JOHN MARTIN CONLEY, B.A., J.D., Ph.D., William Rand Kenan Jr. Professor of Law
MICHAEL L. CORRADO, B.A., B.S., A.M., Ph.D., J.D., Arch T. Allen Distinguished Professor of Law
JOHN F. COYLE, B.A., M.P.H., J.D., Assistant Professor of Law
KAREEM U. CRAYTON, A.B., Ph.D., J.D., Associate Professor of Law
CHARLES EDWARD DAVE, B.A., J.D., Henry Brandis Professor of Law and Deputy Director of the Center for Civil Rights

Joshua Eagle, B.A., M.S., J.D., Visiting Professor of Law
MAXINE N. EICINER, B.A., J.D., M.A., Ph.D., Reed C. Ivey II Professor of Law
LEWIS MOORE EVERETT, B.A., M.A., J.D., Clinical Assistant Professor of Law
BARBARA A. FEDDERS, B.A., J.D., Clinical Assistant Professor of Law
VICTOR B. FLATT, B.A., J.D., Thomas F. and Elizabeth Taft Distinguished Professor in Environmental Law and Director of the Center for Law, Environment, Adaptation and Resources (CLEAR)
TIMOTHY J. GALLINA, B.A., J.D., M.L.I.S., Reference Librarian and Clinical Assistant Professor of Law
LAURA N. GASAWAY, B.A., M.L.I.S., J.D., Paul B. Eaton Distinguished Professor of Law
DEBORAH R. GERIARDT, A.B., J.D., Assistant Professor of Law
MICHAEL J. GERIARDT, B.A., M.S., J.D., Samuel Ashe Distinguished Professor in Constitutional Law and Director of the Center for Law and Government
S. ELIZABETH GIBSON, B.A., J.D., Burton Craige Professor of Law
MARGARET F. HALL, B.A., M.L.I.S., J.D., Reference and Student Services Librarian and Clinical Assistant Professor of Law
AARON R. HARMON, B.A., M.A., J.D., Clinical Assistant Professor of Law
THOMAS LEE HAZEN, B.A., J.D., Cary C. Boshamer Distinguished Professor of Law
JEFFREY MICHAEL HIRSCH, B.A., M.P.P., J.D., Associate Professor of Law
AMANDA S. HITCHCOCK, B.A., J.D., Clinical Assistant Professor of Law
DONALD THOMAS HORNSTEIN, B.A., J.D., Aubrey L. Brooks Professor of Law
MELISSA B. JACOBY, B.A., J.D., Graham Kenan Professor of Law
THOMAS A. KELLEY, III, A.B., J.D., Professor of Law and Director of Clinical Programs
JOSEPH E. KENNEDY, B.A., J.D., Professor of Law
CATHERINE Y. KIM, B.A., J.D., Assistant Professor of Law
JULIE L. KIMBROUGH, B.A., J.D., M.L.S., Assistant Director for Collection Services and Clinical Assistant Professor of Law

P. ANNE KLINEFELTER, B.A., M.L.S., J.D., Director of Law Library and Associate Professor of Law
JOAN H. Krause, B.A., J.D., Associate Dean for Faculty Development and Dan K. Moore Distinguished Professor of Law; Professor of Social Medicine in the School of Medicine; Adjunct Professor in the Gillings School of Global Public Health

HOLNING S. LAU, B.A., J.D., Associate Professor of Law
ANNE LOOISTIJN-CLEARIE, B.A., M.A., LL.M., Visiting Professor of Law
WILLIAM P. MARSHALL, B.A., J.D., William Rand Kenan Jr Distinguished Professor of Law
JON PAUL MCCLANAHAN, B.A., J.D., Clinical Assistant Professor of Law and Director of Academic Success Programs

STEVEN J. MELAMUT, B.A., B.S., J.D., M.L.S., Information Technology Services Librarian and Clinical Assistant Professor of Law
ROBERT P. MOSTELLER, B.A., M.A., J.D., Associate Dean for Academic Affairs and J. Dickson Phillips Distinguished Professor of Law

ERIC L. MULLER, A.B., J.D., Dan K. Moore Distinguished Professor of Law in Jurisprudence and Ethics and Director of UNC Center for Faculty Excellence
RICHARD E. MYERS II, B.A., M.A., J.D., Associate Dean for Student Affairs and George R. Ward Associate Professor of Law

GENE R. NICHOL, B.A., J.D., Boyd Tinsley Distinguished Professor of Law and Director of the Center on Poverty, Work and Opportunity

DONNA L. NIXON, B.S., J.D., M.L.S., Electronic Resources Librarian and Clinical Assistant Professor of Law
SAULE T. OMOAROVA, PH.D., J.D., Assistant Professor of Law

JOHN V. ORTH, A.B., J.D., PH.D., William Rand Kenan Jr Professor of Law
MARY-ROSE PAPANDREA, A.B., J.D., Visiting Associate Professor or Law

GREGG D. POLSKY, B.A., J.D., LL.M., Willie Person Mangum Professor of Law
GERALD J. POSTEMA, A.B., M.A., PH.D., Cary C. Boshammer Professor of Philosophy and Professor of Law

KATIE ROSE GUEST PRYAL, A.B., M.A., J.D., PH.D., Clinical Assistant Professor of Law
ALICE A. RATLIFF, B.A., M.A., J.D., Clinical Professor of Law

DANA A. REMUS, A.B., J.D., Visiting Professor of Law
KATHRYN A. SABBETH, B.A., J.D., Assistant Professor of Law

ÓSCAR J. SALINAS, B.A., M.A., Clinical Assistant Professor of Law
SARA A. SAMPSON, B.S., J.D., M.L.S., Deputy Director of the Law Library and Clinical Assistant Professor of Law

MELISSA SAUNDERS, B.A., J.D., Professor of Law
MARIA SAVASTA-KENNEDY, B.A., J.D., Clinical Professor of Law and Director of the Externship Program

RICHARD S. SAVER, B.A., J.D., Professor of Law and Professor of Social Medicine in the School of Medicine; Adjunct Professor in the Gillings School of Global Public Health

NICK Sexton, B.A., J.D., M.L.S., Reference and Information Delivery Services Librarian and Clinical Assistant Professor of Law

JAMES W. SHERWOOD, B.A., J.D., LL.M., M.L.I.S., Reference/Foreign and International Law Librarian and Clinical Assistant Professor of Law

CRAIG T. SMITH, B.A., LL.M., Assistant Dean for Legal Writing and Academic Success and Clinical Professor of Law

ROBERT J. SMITH, B.A., J.D., Assistant Professor Law

LESLIE A. STREET, B.A., J.D., M.L.I.S., Assistant Director of Public Services of the Law Library and Clinical Assistant Professor of Law

WILLIAM J. TURNIER, B.S., M.A., J.D., Willie Person Mangum Professor of Law

JUDITH WELCH WEIGNER, B.A., J.D., Burton Craig Professor of Law

W. MARK C. WEIDEMAYER, B.A., J.D., Assistant Professor of Law

ARTHUR MARK WEISBURD, A.B., J.D., Reef C. Ivey II Distinguished Professor of Law

DEBORAH M. WEISSMAN, B.A., J.D., Reef C Ivey II Distinguished Professor of Law

ERIKA WILSON, B.S., J.D., Assistant Professor of Law

JANINE M. ZANIN, B.A., J.D., Faculty Supervisor of Externship Programs and Clinical Assistant Professor of Law

Adjunct Faculty

MICHAEL R. ABEL, A.B., J.D., Adjunct Professor of Law
MICHAEL W. BALLANCE, B.A., J.D., Adjunct Professor of Law
SETH A. BLUM, B.A., M.A., J.D., Adjunct Professor of Law

ELIZABETH BRASWELL, B.A., J.D., Adjunct Professor of Law
ERIC J. BRIGNAC, B.A., J.D., Adjunct Associate Professor of Law

JONATHAN E. BROUN, B.PH., J.D., Adjunct Professor of Law
JOSEPH H. BYLINSKI, B.A., M.B.A., PH.D., Adjunct Associate Professor of Law

MARY BETH CHOPAS, B.A., J.D., Adjunct Professor of Law
JOANNA CAREY CLEVELAND, B.A., J.D., M.P.A., Adjunct Professor of Law
FELICE M. CORPENING, B.A., J.D., Adjunct Professor of Law
KEARNS DAVIS, B.A., M.A., J.D., Adjunct Professor of Law
THE HONORABLE M. PATRICIA DEVINE, B.A., J.D., Adjunct Professor of Law
MARK E. DOROSIN, B.A., M.A., J.D., Adjunct Professor of Law
JAMES C. DRENNAN, B.A., J.D., Adjunct Professor of Law
AMY FLANARY-SMITH, B.A., J.D., Adjunct Assistant Professor of Law
JAMES C. FULLER, B.A., J.D., Adjunct Professor of Law
ANTHONY GAETA, JR., B.A., J.D., Adjunct Professor of Law
DAVID L. HARRISON, B.S., J.D., Adjunct Professor of Law
R. HARPER HECKMAN, B.A., J.D., Adjunct Professor of Law
NORMA HOUSTON, B.S., J.D., Adjunct Professor of Law
MALCOLM HUNTER, B.A., J.D., Adjunct Professor of Law
ROBERT O. JENKINS, B.A., M.P.A., J.D., Adjunct Professor of Law
SALLY C. JOHNSON, B.S., M.D., Adjunct Professor of Law
VALERIE A. JOHNSON, B.A., J.D., Adjunct Professor of Law
THE HONORABLE ABRAHAM JONES, B.A., J.D., Adjunct Professor of Law
MICHAEL G. KADENS, A.B., J.D., Adjunct Professor of Law
SEBASTIAN KIELMANOVICH, J.D., J.D., Adjunct Associate Professor of Law
KELLIE D. MANNETTE, B.A., J.D., Adjunct Assistant Professor of Law
THE HONORABLE MARK D. MARTIN, B.S., B.A., J.D., LL.M., Adjunct Professor of Law
WILLIAM S. MILLS, A.B., J.D., Adjunct Professor of Law
JOHN M. MOYE, B.A., J.D., Adjunct Assistant Professor of Law
SAMUEL T. OLIVER, B.A., J.D., Adjunct Professor of Law
THE HONORABLE ROBERT F. ORR, A.B., J.D., Adjunct Professor of Law
DAVID W. OWENS, B.A., M.R.P., J.D., Adjunct Professor of Law
J. DICKSON PHILLIPS, III, A.B., J.D., Adjunct Professor of Law
BETH POSNER, A.B., M.A., J.D., Adjunct Professor of Law
SCOTT L. SILLIMAN, B.A., J.D., Adjunct Professor of Law
ELLIOt M. SILVERSTEIN, B.A., J.D., PH.D., Adjunct Professor of Law
THOMAS M. STERN, B.A., J.D., Adjunct Professor of Law
KATHERINE TOPULOS, B.A., M.A., M.S.L.S., J.D., Adjunct Professor of Law
DEVON WHITE, A.A.S., B.A., M.A., J.D., Adjunct Associate Professor of Law
GORDON WIDENHOUSE, A.B., M.A., J.D., Adjunct Professor of Law
MELVIN F. WRIGHT JR., B.A., J.D., Adjunct Professor of Law

Faculty Emeriti

WILLIAM BRANTLEY AYCOCK, B.A., A.M., J.D., LL.D., Kenan Professor of Law Emeritus
KENNETH S. BROUN, B.S., J.D., Henry Brandis Professor of Law Emeritus
HARRY E. GROVES, B.A., J.D., LL.M., Henry Brandis Professor of Law Emeritus
PAUL HARDIN, B.A., J.D., Professor of Law Emeritus
PAUL G. HASKELL, A.B., J.D., LL.B., William Rand Kenan, Jr. Professor of Law Emeritus
JOSEPH JOHN KALO, B.A., J.D., Graham Kenan Professor of Law Emeritus
RONALD CHARLES LINK, A.B., M.A., J.D., Dan K. Moore Distinguished Professor of Law Emeritus
ARNOLD H. LOEWY, B.S., J.D., LL.M., Graham Kenan Professor of Law Emeritus
RUTH ANN MCKINNEY, B.A., M.Ed., J.D., Clinical Professor of Law Emeritus
RICHARD A. ROSEN, B.A., J.D., Professor of Law Emeritus
The First Amendment Law Review is published three times a year by the First Amendment Law Review.

Subscriptions: Annual subscriptions are $40.00 per year (domestic). Subscriptions are accepted for complete volumes only and will be renewed automatically unless the subscriber provides adequate notice of cancellation. Notification as to change of address should include both the old and new addresses and should be made at least one month before publication date to ensure prompt delivery. Subscriptions and address changes should be directed to the Communications Editor at the following address:

First Amendment Law Review
The University of North Carolina School of Law
100 Ridge Road, CB# 3380
3002 Van Hecke-Wettach Hall
Chapel Hill, North Carolina 27599-3380
(919) 843-6683
falr@unc.edu

Single and Back Issues: Volumes 3, 4, 5, 6, 7, 8, 9, and 10 may be purchased from the Review for $30.00 per issue (domestic).

Manuscripts: The Review invites the submission of unsolicited manuscripts. Manuscripts cannot be returned unless accompanied by a self-addressed, postage-paid envelope. Correspondence and manuscripts should be directed to the Editor in Chief.

Copyright: Copyright © 2014 by the North Carolina Law Review Association. Except as otherwise provided, permission is hereby granted for copies of each article to be made for classroom use, provided that: (1) all copies are distributed at or below cost, (2) the author and the First Amendment Law Review are identified, (3) proper notice of copyright is affixed to each copy, and (4) the First Amendment Law Review is notified of the use.

Publication Information: The Review is printed by Joe Christensen, Inc. of Lincoln, Nebraska. The text and citations in Volume 10 conform generally to THE BLUEBOOK: A UNIFORM SYSTEM OF CITATION (Columbia Law Review Ass’n et al. eds, 19th ed. 2010).

Cite as: FIRST AMEND. L. REV.

www.firstamendmentlawreview.org
The Board of Editors would like to thank the following individuals and organizations for their support of the First Amendment Law Review:

Dean John Charles Boger
Associate Dean Robert P. Mosteller
Professor William P. Marshall
Professor Arnold H. Loewy
Associate Dean Eric L. Muller
Assistant Dean John B. Kasprzak
Assistant Dean Louise Harris
Student Services Coordinator Elizabeth Dorsey Bachenheimer
University of North Carolina Center for Media Law & Policy
Graduate and Professional Student Federation of the University of North Carolina at Chapel Hill
Student Bar Association
Student Congress of the University of North Carolina at Chapel Hill
North Carolina Law Review
North Carolina Banking Institute
North Carolina Journal of International Law and Commercial Regulation
North Carolina Journal of Law and Technology

and the many alumni of First Amendment Law Review and UNC School of Law who helped build and continue to support this publication.