5-1-2014

Contents

North Carolina Law Review

Follow this and additional works at: http://scholarship.law.unc.edu/nclr

Part of the Law Commons

Recommended Citation
Available at: http://scholarship.law.unc.edu/nclr/vol92/iss4/1

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

HARRY EDWARD GROVES, LATE
EMERITUS HENRY BRANDIS
PROFESSOR OF LAW: IN MEMORIAM .......... John Charles Boger 1041

ARTICLES

PATENT DIALOGUE ......................................................... J. Jonas Anderson 1049

RETHINKING JUDGMENTS RECIPROCITY ...................... John F. Coyle 1109

DEFINING UNREASONABLY EXCLUSIONARY CONDUCT: THE "EXCLUSION OF A COMPETITIVE RIVAL" APPROACH ........................................... Thomas A. Lambert 1175

TWILIGHT FOR THE STRICT CONSTRUCTION OF WAIVERS OF FEDERAL SOVEREIGN IMMUNITY .................. Gregory C. Sisk 1245

RECENT DEVELOPMENTS

FLIP THIS COMPANY, BUT DON’T LEAVE ITS PENSIONERS OUT IN THE COLD: SUN CAPITAL AS A CALL TO ACTION TO CHANGE TAXATION OF PRIVATE EQUITY FUNDS ........................................ Valerie M. Hughes 1322

CAN WE KEEP THIS DIRTY MONEY?: PONZI SCHEME TRANSFERS AND THE FOURTH CIRCUIT’S VAGUE BUT WORKABLE STANDARD IN IN RE DERIVIUM CAPITAL, LLC ...................................................... Kristen J. Kenley 1370

WHERE GUTENBERG MEETS GUNS: THE LIBERATOR, 3D-PRINTED WEAPONS, AND THE FIRST AMENDMENT ......................... Barton Lee 1393

THE SHIFTING SANDS OF DETERRENCE THEORY AND THE SIXTH CIRCUIT’S TROUBLE WITH SUPPRESSION IN UNITED STATES V. FOFANA .................. K. Dawn Milam 1426
The views expressed in signed contributions to the Review do not necessarily reflect the opinions of the Board of Editors.
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
JEFFREY MICHAEL HIRSCH, B.A., M.P.P., J.D., Associate Dean for Academic Affairs and Geneva Yeargan Rand Distinguished Professor of Law
RICHARD E. MYERS II, B.A., M.A., J.D., Associate Dean for Student Affairs and Henry Brandis 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., J.D., LL.M., Assistant Dean for Legal Writing and Academic Excellence and Clinical Professor of Law

Faculty

DAVID S. ARDIA, B.S., M.S., J.D., LL.M., Assistant Professor Law and Co-Director of the Center for Media Law and Policy
TAMAR R. BIRKHEAD, B.A., J.D., Associate Professor of Law and Interim Director of Clinical Programs
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
LESA 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
ALEX A. CHERN, B.S., 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., J.D., Arch T. Allen Distinguished Professor of Law
JOHN F. COYLE, B.A., M.PHIL., J.D., Assistant Professor of Law
KAREEM O. CRAWLEY, B.A., M.PHIL., J.D., Associate Professor of Law
CHARLES EDWARD DAYE, B.A., J.D., Henry Brandis Professor of Law and Deputy Director of the Center for Civil Rights
MAXINE N. EICHNER, B.A., J.D., M.A., Ph.D., Reif C. Ivey II Professor of Law
LEWIS MOORE EVELLETT, B.A., M.A., J.D., Clinical Assistant Professor of Law
BARBARA A. FEDDERS, B.A., M.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/Emerging Technologies Librarian and Clinical Assistant Professor of Law
DEBORAH R. GERHARDT, A.B., J.D., Assistant Professor of Law
MICHAEL J. GERHARDT, 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 Craig Professor of Law
AARON R. HARMON, B.A., M.A., J.D., Clinical Assistant Professor of Law
THOMAS LEE HAIZEN, B.A., J.D., Cary C. Boshamer Distinguished Professor of Law
JEFFREY MICHAEL HIRSCH, B.A., M.P.P., J.D., Associate Dean for Academic Affairs and Geneva Yeargan Rand Distinguished 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., Paul B. Eaton Distinguished Professor of Law
JEROME T. 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.S., Assistant Director for Collection Services and Clinical Assistant Professor of Law

Subscriptions: Annual subscriptions are $55.00 for domestic subscribers and $60.00 for foreign subscribers. Applicable state sales taxes are included in the annual rates. 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 the publication date to ensure prompt delivery. Subscriptions and address changes should be directed to the Publication Editor at the following address:

North Carolina Law Review
School of Law
The University of North Carolina
CB# 3380, Van Hecke-Wettach Hall
Chapel Hill, North Carolina 27599-3380
(919) 962-1526
www.nclawreview.org
e-mail: nclrev@unc.edu

Single and Back Issues: Single copies of current and back issues from the previous five volumes are available from the North Carolina Law Review Association for $12.00 per copy for Issues 1–4 and $15.00 for Issues 5–6 (add $5.00 for international deliveries). Back issues and complete sets of the Review are available from William S. Hein & Co., 2350 North Forest Road, Getzville, NY 14608, at prices that may vary. Back issues are also available in PDF format on HeinOnline at http://heinonline.org.

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

Publication Information: The text and citations of the Review conform to the nineteenth edition of The Bluebook: A Uniform System of Citation. The Review is printed by Joe Christensen, Inc., in Lincoln, Nebraska. ISSN 0029-2524.

Materials cited “on file with the North Carolina Law Review” will be retained for a maximum of five years from date of publication.

Periodicals postage paid at Chapel Hill, North Carolina and additional mailing offices.

POSTMASTER: Send address changes to: North Carolina Law Review, School of Law, The University of North Carolina, CB# 3380, Van Hecke-Wettach Hall, Chapel Hill, North Carolina 27599-3380.