VERMONT LAW REVIEW

VOLUME 44 NUMBER 1 FALL 2019

ARTICLES

Calming Troubled Waters: Local Solutions	*John R. Nolon*	1
Moses's Restatement of Torts: Modern Principles of Justice and Efficiency in the *Mishpatim*	*Louis W. Hensler III*	69
Hashtag Hate: The Need for Regulating Malignant Rhetoric Online	*Stephanie J. Beach*	129
What Happens on Social Media Could Derail Your Legal Career: Teaching E-Professionalism in Experiential Learning	*Colleen T. Scarola*	165

VERMONT LAW REVIEW NOTE COMPETITION WINNER

Cover Your Ash: Upholding the Physical Entry Requirement for Trespass in the Age of Pokémon Go	*Madison Pevey*	209

Vermont Law Review is published four times each academic year: Fall, Winter, Spring, and Summer. *Vermont Law Review*'s mailing address is: *Vermont Law Review*, Vermont Law School, P.O. Box 96, South Royalton, VT 05068. *Vermont Law Review* can be found on the web at http://lawreview.vermontlaw.edu. E-mail: lawreview@vermontlaw.edu.

Subscriptions: Subscriptions are $35.00 (domestic) and $40.00 (foreign) per year, payable in advance. All subscriptions will be renewed automatically unless the subscriber provides timely notice of cancellation. Address changes must be made at least one month before the publication date to ensure proper delivery. Please provide the account number, the old address, and the new address, including zip codes. Please address all correspondence regarding address changes or other requests for subscription information to the Business Manager at lawreview@vermontlaw.edu.

Single and Back Issues: Books from current volumes can be purchased for $10.00 from *Vermont Law Review.* For back issues, contact *Vermont Law Review* or William S. Hein & Co., Inc., 1285 Main Street, Buffalo, NY 14209-1987. For an inclusive index of prior volumes, please contact *Vermont Law Review*.

Manuscripts: *Vermont Law Review* welcomes the submission of unsolicited articles, comments, essays, and book reviews. Submissions may be submitted through the mail or electronically. Manuscripts cannot be returned unless accompanied by a self-addressed, stamped, postage-paid envelope.

Copyright: © 2019 by Vermont Law School. The copyright in each article is owned by the respective author. All rights reserved. Except as otherwise provided, the author of each article in this issue has granted permission for copies of that article to be made for classroom use, provided that: (1) copies are distributed at or below cost; (2) the author and *Vermont Law Review* are identified on the copied materials; (3) each copy bears the proper notice of copyright; and (4) *Vermont Law Review* is notified in writing of the use of the material(s).

Production: *Vermont Law Review* is printed in Times New Roman scalable font by The Sheridan Press, 450 Fame Avenue, Hanover, PA 17331.

VERMONT LAW REVIEW

VOLUME 44 NUMBER 1 FALL 2019

Editor-in-Chief
COLETTE SCHMIDT

Senior Managing Editor
KIMBERLY E. JOHNSON

Senior Articles Editor
DAVID RILEY†

Senior Notes Editor
BETHANY TOWNE†

Business Manager
JESSICA DOUGHTY

Managing Editors
DANIELLE BRADTMILLER
ADAM MITTERMAIER
MEGAN NOONAN

Articles Editors
CYDNEE BENCE
ERIC BRANDIES†
RYAN MITCHELL
JULIUS MOSS
ANDERS NEWBURY
GRACE PATRICK

Head Notes Editors
KELSEY GODIN†
MADISON PEVEY
AMANDA C. VEGA

Vermont Editor
LAURA LEE†

Symposium Editors
RONALD HAMMOND
SARAH PUZZO

Alumni Editor
GORDANNA CLEVENGER

Technology Editor
BRIAN NGUYEN

Editors
DAVID K. KAHN
CARLY OROZCO†

Staff
THEOPHILUS O. AGBI
PAIGE BEYER
MATTHEW BROOKS
JOHN C. BURGESS
NATHAN CARRIER
RYAN S. CLEMENS
ANDREW CLIBURN
GILLIAN COWLEY
FRANCIS DIMORA
MADELINE DUNN
CAITLIN FEEHERY
SARA M. GAYLON
SUHASINI GHOSH
JESSICA GRISWOLD
NICHOLAS HINCKLEY
ANDREW HURSH
MARGARET KELLY
KATHERINE KRAL
DANIEL KRZYKOWSKI
SEAN NOONAN
PAUL QUACKENBUSH
KELSEY SCHWEITZER
LAURYN SHERMAN
SOLAL WANSTOK
JASON WARFIELD
LANCEE WHETMAN

Faculty Advisor
PROF. HILLARY HOFFMANN

† PRODUCTION COORDINATOR

VERMONT LAW SCHOOL

2019–2020

ADMINISTRATION

Thomas McHenry, B.A., M.E.S., J.D., President, Dean and Professor
Cynthia Lewis, B.A., J.D., M.L.I.S., Vice Dean for Faculty and Professor
Beth McCormack, A.B., J.D., Vice Dean for Students and Professor
Shirley A. Jefferson, B.S., J.D., Associate Dean for Student Affairs and Diversity and Associate Professor
Jennifer K. Rushlow, B.A., M.P.H., J.D., Associate Dean for Environmental Programs, Director of the Environmental Law Center and Associate Professor

FACULTY

Susan B. Apel, B.A., J.D., Professor Emerita
Margaret Martin Barry, B.A., J.D., Professor Emerita
Matthew Bernstein, B.A., M.A., J.D., Assistant Professor
Laurie J. Beyranevand, B.A., J.D., Director of the Center for Agriculture and Food Systems, and Professor
Joseph Brennan, B.A., J.D., Director of the Academic Success Program and Professor
Gary Brooks, A.B., J.D., Director of the General Practice Program and Assistant Professor
Richard O. Brooks, B.A., M.A., LL.B., Ph.D., Professor Emeritus
Jared Carter, B.A., J.D., Assistant Professor
Stephanie Clark, B.A., J.D., Director of the Center for Justice Reform and Assistant Professor
Liz Ryan Cole, B.A., J.D., Professor Emerita
Michelle Donnelly, B.A., J.D., Staff Attorney at the South Royalton Legal Clinic and Assistant Professor
Michael Dworkin, B.A., J.D., Professor Emeritus
Stephen Dycus, B.A., LL.B., LL.M., Professor
John Echeverria, B.A., M.F.S., J.D., Professor
Jeannette Eicks, B.A., J.D., Director of the Center for Legal Innovation and Research Professor
Paul S. Ferber, B.A., J.D., Professor Emeritus
David B. Firestone, B.S., J.D., Professor
Catherine Fregosi, B.A., J.D., Assistant Professor
Clara Gimenez, J.D., Associate Professor
Oliver R. Goodenough, B.A., J.D., Professor
Hillary Hoffmann, B.A., J.D., Professor
Erin Jacobsen, B.A., J.D., Senior Staff Attorney at the South Royalton Legal Clinic and Assistant Professor
Greg Johnson, B.A., J.D., Director of the Legal Writing Program and Professor
Kevin Jones, B.S., M., Ph.D., Director of the Institute for Energy and the Environment and Professor
Nicole Killoran, B.S., J.D., Assistant Professor
Kenneth R. Kreiling, B.A., M.A., J.D., LL.M., Professor Emeritus
Sophia Kruszewski, Clinic Director for the Center for Agriculture and Food Systems and Assistant Professor
Siu Tip Lam, B.A., J.D., Director of the U.S.-Asia Partnership for Environmental Law and Associate Professor
Mark Latham, B.S.N., J.D., Professor
Yanmei Lin, B.A., M.A., LL.M., Associate Director of the U.S.-Asia Partnerships for Environmental Law and Associate Professor
Beth Locker, A.B., J.D., Assistant Professor
Reed Elizabeth Loder, A.B., M.A., Ph.D., J.D., Professor
James C. May, B.A., M.A., J.D., Professor Emeritus
Philip Meyer, B.A., M.F.A., J.D., LL.M., Professor
Marc Mihaly, B.A., J.D., Professor Emeritus
Janet Milne, B.A., J.D., Director of the Environmental Tax Policy Institute and Professor
Jim Murphy, B.A., J.D., LL.M., Director of the Environmental Advocacy Clinic
Sean Nolon, B.A., J.D., Professor
Jeannie Oliver, B.A., B.L., J.D., Staff Attorney at the Institute for Energy and the Environment and Assistant Professor

Tade Oyewunmi, LL.B., LL.M., LL.D., Assistant Professor
Patrick Parenteau, B.S., J.D., LL.M., Senior Counsel to the Environmental Advocacy Clinic, Senior Counsel to the Institute for Energy and the Environment, and Professor
Brian Porto, B.A., Ph.D., J.D., Assistant Director of the Legal Writing Program and Professor
Sarah M. Reiter, B.S., M.S., J.D., Faculty Director of Online Learning and Assistant Professor
Kenneth Rumelt, B.A., J.D., LL.M., Senior Attorney at the Environmental Advocacy Clinic and Professor
Christine Ryan, B.A., M.S., M.A., Environmental Law Librarian and Assistant Professor
Richard Sala, B.A., M.E.L.P., M.B.A., J.D., Assistant Director of the Academic Success Program and Assistant Professor
Robert L. Sand, B.A., J.D., Director of the Center for Justice Reform and Professor
Melissa Scanlan, B.A., M.S., J.D., Director of the New Economy Law Center and Professor
Linda O. Smiddy, B.A., M.A.T., J.D., LL.M., Professor Emerita
Emily Spiegel, B.S., J.D., Assistant Professor
Pamela J. Stephens, B.A., J.D., Professor Emerita
Rachel Stevens, B.A., M.E.L.P., J.D., LL.M., Staff Attorney at the Environmental Advocacy Clinic and Assistant Professor
Jennifer S. Taub, B.A., J.D., Professor
Peter R. Teachout, B.A., M.A., J.D., Professor
Jack R. Tuholske, B.A., J.D., Director of the Water and Justice Program and Professor
Joan E. Vogel, B.A., M.A., J.D., Professor
Stephanie J. Willbanks, B.A., J.D., Professor
Jane Woldow, B.S., J.D., M.L.S., Director of the Julien and Virginia Cornell Library and Associate Professor
L. Kinvin Wroth, B.A., LL.B., Professor Emeritus
Carl A. Yirka, B.A., M.S., J.D., Library Director Emeritus and Professor Emeritus

VERMONT LAW SCHOOL

BOARD OF TRUSTEES
2019–2020

OFFICERS

President and Dean
Thomas McHenry

Chair
Glenn Berger ‘78

Vice-Chair
Constance Neary ‘89

Secretary
Amy Davenport

Treasurer
Kevin Mendik ‘87

MEMBERS

Richard E. Ayres
Stephen F.W. Ball, Jr.
Caryn Clayman ‘83
Scott Cullen ‘97
Brian S. Dunkiel ‘96
Janice Forgays ‘86
Sheppard A. Guryan
Marion Malcolm Hampton
Richard A. Johnson ‘97
Jonathan Kaufelt
J.B. Kittredge
Catherine Mackenzie
Elizabeth Miller
Mark Sciarrotta ‘96

Alumni Trustee
Karis North, Esq. ’95

Student Trustees
Arielle V. King ’21
Lewis Grove ’20

Faculty Representative
Professor Joe Brennan

Staff Representative
Jennifer Lawrence

Trustees Emeriti
J. Scott Cameron
Mrs. Ann Debevoise
R. Allan Paul
Rick Shafer

VERMONT LAW REVIEW

SUBSCRIPTIONS

Vermont Law Review is published quarterly each academic year: Fall, Winter, Spring, and Summer. If you wish to order a yearly subscription to *Vermont Law Review*, please complete and mail the form below or call *Vermont Law Review* at (802) 831-1253.

Vermont Law Review
Subscription Order Form

Mail subscription to:
Name (firm or individual) _____
Address _____
_____
_____

Check (payable to Vermont Law School) enclosed for:
_____ $35.00 (domestic)
_____ $40.00 (foreign)

Vermont Law Review
Vermont Law School
P.O. Box 96
South Royalton, Vermont 05068

VERMONT LAW REVIEW

CALL FOR ARTICLES

Vermont Law Review seeks articles, commentaries, essays, and book reviews concerning recent developments in state, federal, Native American, or international law. Interested authors are encouraged to forward their submissions to:

Vermont Law Review
Vermont Law School
Attn: Senior Articles Editor
P.O. Box 96
South Royalton, Vermont 05068

For electronic submissions or submissions questions, please e-mail our Senior Articles Editor for 2010–2020, David Riley, at VLRSeniorArticlesEditor@vermontlaw.edu, or call the *Vermont Law Review* at (802) 831-1253. *Vermont Law Review* encourages double-sided printing of submissions when possible.