*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:** © 2023 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 48 NUMBER 1 FALL 2023

Editor-in-Chief GRETA RASER

Senior Managing Editor SERENA NELSON

Senior Articles Editor GRAYSON HARBURY Senior Notes Editor PHOEBE HOWE

Business Manager CALLISTA SMITH

Managing Editors NOAH L. CORBETT ELIZABETH FRYE AMY VEDDER Articles Editors
ALEXIS MCCULLOUGH
IAN MCDONALD
MARIBEL MOSES
KATHERINE POTTER
KYLA SCHWEBER
VERONICA SHAFIK

Head Notes Editors ERIN BEIDLER VERONICA GASSERT HANNAH KONIAR

Vermont Editor NATALIE MAY Symposium Editors MAYLEE S. CARBAJAL MAIA YOUNG Alumni Editor THEODORE M. PUPILLA

Technology Editor RYAN STERLING

Editors TAYLOR SMITH COLEMAN O. THOMAS

ISAAC BAKER
CHARLOTTE BIERI
JULIA BLOECHL
ALY BRINES
HADLEY CHANCE
MATT DEDERER
MARK DUNCKEL
JACOB EINBINDER
BRETT FRANCIS
NICK GLOVER

Staff Editors
LYNDALL GOUDEMOND
JOHN-CHARLES K. HEWITT
ANDREW HOCKENBERRY
MARIOT HUESSY
EVAN KERN
NICHOLAS KISS
TIMOTHY LYONS
GABRIELLA MILLER

MAXWELL MRUS
FAITH ORR
ISABELLA PICKETT
ANNA PLOOF
MELISSA RICKENBAKER
THEO ROSE
WHITNEY ROTH
LESLIE SMITH
AMANDA TYNAN
LINDSEY WOOD

Faculty Advisor PROF. CATHERINE FREGOSI

#### VERMONT LAW AND GRADUATE SCHOOL

#### 2023-2024

#### ADMINISTRATION

Rodney A. Smolla, President and Professor of Law Beth McCormack, Dean and Professor

Dan Bromberg, Dean and Professor Cynthia Lewis, Vice Dean for Faculty and Professor

Joseph Brennan, Vice Dean for Students and Professor Shirley Jefferson, Vice President for Community Engagement and Government Affairs and Professor Jennifer Rushlow, Dean Maverick Lloyd School for the Environment, Director of the Environmental Law Center and Professor

#### **FACULTY**

Amerin Aborjaily, Assistant Professor

Laurie Beyranevand, Director for the Center for Agriculture and Food Systems and Professor Gary Brooks, Director for the General Practice Program and Assistant Professor Jessica Brown, Director of the Center of Justice Reform and Assistant Professor

Genevieve Byrne, Assistant Professor Jared Carter, Associate Professor Jenny Carter, Assistant Professor

Stephanie Clark, Professor Anna Connolly, Assistant Professor

Christophe Courchesne, Assistant Professor and Director of the Environmental Advocacy Clinic Jessica Durkis-Stokes, Director of the Academic Success Program and Assistant Professor

David Firestone, Professor
Laura Fox, Douglas M. Costle Chair in Environmental Law, Director of the Farmed Animal Advocacy Clinic and Visiting Professor

Catherine Fregosi, Professor

Clara Gimenez, Associate Professor

Oliver Goodenough, Research Professor

Donald Hayes, Director of the General Practice Program and Professor

Shannon Heery, Assistant Professor

Greg Johnson, Director for the Legal Writing Program and Professor Kevin Jones, Director for the Institute for Energy and the Environment and Professor Nicole Killoran, Director of the Entrepreneurial Legal Laboratory and Professor Stephanie Kupferman, Assistant Professor

Siu Tip Lam, Director for the U.S. Asia Partnerships for Environmental Law and Associate Professor Yanmei Lin, Deputy Director of the U.S. Asia Partnership for Environmental Law and Senior Research Professor

Beth Locker, Associate Dean of Experiential Learning, Director for the JD Externship Program and Professor Reed Loder, Professor

Jill Martin Diaz, Assistant Professor

Janet Milne, Director for the Environmental Tax Policy Institute and Professor Mia Montoya Hammersley, Director of the Environmental Justice Clinic and Assistant Professor

> Margaret Olnek, Assistant Professor Lindsey Pointer, Assistant Professor Christine Ryan, Associate Professor

Lisa Ryan, Associate Dean for Diversity, Equity and Inclusion

Richard Sala, Faculty Director of the Hybrid JD and Online Learning Program and Professor Robert Sand, Founding Director of the Center for Justice Reform and Professor Jennifer Sekula, Assistant Professor

Dayna Smith, Assistant Director Academic Success Program and Assistant Professor

Grant Smith, Assistant Professor Peter Teachout, Professor Benjamin Varadi, Assistant Professor Pamela Vesilind, Assistant Professor Joan Vogel, Professor Stephanie Willbanks, Professor

Delcianna Winders, Animal Law Program Director and Associate Professor Jane Woldow, Director of the Julien and Virginia Cornell Library and Professor Guanchi Zhang, Assistant Professor

Xiaoyu Zhang, Director of Master of Legal Studies and Assistant Professor

In Memoriam Don Baur, Adjunct Professor

#### VERMONT LAW AND GRADUATE SCHOOL

## BOARD OF TRUSTEES 2023-2024

#### **OFFICERS**

**President** Rodney A. Smolla **Dean** Beth McCormack **Dean** Dan Bromberg

*Chair* Glenn J. Berger '78

Secretary
Jessica L. Olson '07

Vice-Chair Constance J. Neary '89

Treasurer
Scott M. Cullen '97

#### MEMBERS

Stephen F.W. Ball, Jr. '07 Kendra F. Brown '12 Caryn J. Clayman '83 Amy M. Davenport Charles E. DiLeva '78 Holly M. Groschner '88 J.B. Kittredge Susan Lacoste, MSEL '03 Marion McCollom Hampton Elizabeth Miller Ian A. Montone '95 Jacob B. Perkinson '95 Jill Pfenning '07 Mark Sciarrotta '96 John E. Westerman '82

Alumni Trustees Richard A. Johnson '97 J. Patrick Kennedy '93

Faculty Representative
Delcianna Winders

Trustees Emeriti
J. Scott Cameron '80
Ann T. Debevoise
Rick Shafer '77

Student Trustees
Jessica Dunning '24
Octavius Henderson '25

Staff Representative
Katie Merrill



## **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 and Graduate 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 and Graduate 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 2023–2024, Grayson Harbury, 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.